

STATE OF UTAH
DIVISION OF OIL, GAS & MINING
DEPARTMENT OF NATURAL RESOURCES
3 TRIAD CENTER, ROOM 350
SALT LAKE CITY, UTAH 84180

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File*

ANALYSIS AND FINDINGS)
RECLAMATION BOND ESTIMATE)
SUNNYSIDE COAL COMPANY)
PERMIT NO. ACT/007/007)
_____)

SUPPLEMENTAL PETITION FOR
INFORMAL CONFERENCE

By Petition dated October 19, 1994, Sunnyside Coal Company, debtor in possession ("SCC" or "Debtor"), by and through its counsel of record notified the Utah Division of Oil, Gas & Mining ("Division") that SCC was contesting its Order of September 23, 1994, regarding analysis and findings concerning the reclamation bond estimate for Sunnyside Coal Company ("SCC"), Permit No. ACT/007/007 ("Findings Decision"), attached as Exhibit "A," and requested an informal conference pursuant to Utah Code Ann. § 40-10-13(2)(b). This petition supplements that notice.

STATEMENT OF FACTS

1. On January 20, 1986, the Division approved SCC's Mining & Reclamation Plan ("MRP") for the Sunnyside Mine and issued Permit No. ACT/007/007.
2. On January 20, 1991, the Division renewed Permit No. ACT/007/007 for an additional five-year term.
3. On May 24, 1993, the Division issued Corrected Findings confirming SCC's reclamation liability under the MRP as \$1,850,184 and finding that this reclamation liability was secured by a collateral bond in the form of a Deed of Trust dated March 9,

1989, between Sunnyside Reclamation & Salvage as Trustor and the Division as Beneficiary ("Deed of Trust").

4. SCC entered into agreements with Kilter, Inc., a Utah corporation, including a Reclamation Services Contract between Debtor and Kilter dated March 14, 1994, to sell certain assets encumbered by the Deed of Trust and to facilitate the performance of SCC's reclamation obligations under ACT/007/007.

5. By Escrow Agreements dated March 17 and March 22, 1994, between the Division and the federal Office of Surface Mining Reclamation & Enforcement ("OSM"), SCC and Zions First National Bank ("Zions"), the Division and OSM released the Deed of Trust into escrow, conditioned upon replacement of the Deed of Trust with another form of reclamation surety.

6. On March 25, 1994, SCC filed a petition for reorganization under Chapter 11 of the United States Bankruptcy Code as Civil No. 94-12794, U.S. Bankruptcy Court, District of Colorado.

7. On March 31, 1994, SCC notified the Division of the temporary cessation of operations at the Sunnyside Mine in accordance with R645-301-515.300 and its intention to commence final reclamation upon Bankruptcy Court approval of a Plan of Reorganization.

8. On June 10, 1994, SCC submitted the Plan of Reorganization with the Bankruptcy Court which was subsequently amended on August 26, 1994.

9. Under the terms of the Plan of Reorganization, as amended, SCC's reclamation obligations will be satisfied by completion of SCC's reclamation plan pursuant to

the Kilter Agreements, including the Reclamation Services Contract. Amended Plan, Art. IV, ¶ 4.2.

10. On April 18, 1994, the Division issued Division Order # 94-A requiring SCC to submit a plan for closure and sealing of portals at the Sunnyside Mine. A copy of Division Order #94-A is attached as Exhibit "A."

11. In response to Division Order #94-A, SCC provided the Division with a letter dated May 6, 1994 to William Holgate, District Manager, Mine Safety & Health Administration ("MSHA"), setting forth SCC's proposed mine closure and sealing plan.

12. On May 10, 1994, SCC met with the Division and reviewed procedural arrangements for final reclamation of the Sunnyside Mine, submitted the May 6, 1994 sealing and closure plan and submitted a letter dated May 9, 1994 further notifying the Division of its reclamation plan during temporary cessation.

13. On July 7, 1994, the Division issued Division Order #94-B to SCC confirming that the MRP dated January 20, 1986 as subsequently renewed on January 20, 1991 constitutes the approved reclamation plan for the Sunnyside Mine and requesting certain changes to the MRP. Division Order #94-B, p.1. A copy of Division Order #94-B is attached as Exhibit "B."

14. Division Order #94-B alleged certain deficiencies in the approved MRP and requested that SCC change the MRP or face a "hindrance violation."

15. On July 14, 1994, SCC met with the Division to discuss Division Order #94-B and confirmed that the issues raised in that order would be addressed by the Division's review of available data and by an onsite inspection of the Mine. SCC further confirmed that reclamation would proceed on a "design/build" basis to minimize the need for

further engineering studies. See letter from SCC to Director Carter dated July 21, 1994, attached as Exhibit "C."

16. On August 11, 1994, Director Carter met with SCC at the Sunnyside Mine. Contrary to SCC's letter of July 21, 1994, Division technical staff did not accompany Director Carter; therefore, the Division was unable to review available data or conduct an onsite inspection concerning Division Order #94-B.

17. Following The August 11, 1994 meeting, by letter to SCC dated August 17, 1994, Director Carter confirmed the following activities at the Mine: (1) SCC's ongoing environmental compliance activities at the Mine; (2) SCC's sealing of 3 shafts; (3) SCC's removal of 100 drums of used oil; and (4) SCC's dismantling of track, power poles and scrap metal salvage. Director Carter further confirmed receipt of a pre-demolition environmental cleanup plan and a salvage bid for removal of scrap metal from the Mine. Letter of August 17, 1994, attached as Exhibit "D."

18. By letter dated August 17, 1994, Director Carter agreed to schedule an onsite meeting at the Mine between the Division and SCC "to reach agreement as to the appropriate location of disturbed area boundaries." This meeting was to occur within two weeks; therefore, Division Order #94-B was extended to September 2, 1994. Id.

19. The Division failed to schedule the onsite meeting prior to September 2, 1994.

20. By letter dated September 2, 1994, the Division required that SCC acknowledge deficiencies in its reclamation plan by September 9, 1994 or face enforcement action. Letter from Director Carter to SCC dated September 2, 1994, attached as Exhibit "E."

21. SCC responded to the Division with a letter dated September 7, 1994: (1) reconfirming its pre-petition reclamation plan; (2) reconfirming that SCC's ability to reclaim the Mine in a more cost effective manner than the Division; (3) confirming that reclamation would proceed on a "design/build" basis; and (4) confirming that any changes to the MRP would require Bankruptcy court approval. Letter dated September 7, 1994, attached as Exhibit "F."

22. SCC met with the Division on September 9, 1994 and declined to sign the September 2, 1994 letter, but agreed to provide further information to the Division to address Division Order #94-B.

23. By letter dated September 19, 1994 to SCC, the Division asserted that no further extension would be granted to Division Order #94-A [sic]. See letter dated September 19, 1994, attached as Exhibit "G."

24. By Objection dated September 1, 1994, dated prior to the extended date of compliance with Division Order #94-B, the Division and OSM objected to the Reorganization Plan and asserted, incorrectly and prematurely, that the MRP was "disapproved." A copy of the Objection is attached as Exhibit "H."

25. The Objection dated September 1, 1994, for the first time asserts a claim against SCC for \$8,600,000.00 as the new reclamation liability for the Sunnyside Mine. Id.

26. By letter dated September 23, 1994, the Division (well after the September 1, 1994 objection to disclosure), forwarded its Findings Decision to SCC, claiming an increase of nearly \$7 million in SCC's reclamation liability from \$1.85 million to \$8.6 million. A copy of the Findings Decision is attached as Exhibit "I."

27. By Petition dated October 19, 1994, SCC contested: (1) the Division's letter of September 19, 1994 purporting to terminate further extensions of Division Order #94-A"; (2) Division Order #94-B; and (3) the Findings Decision of September 23, 1994. The October 19, 1994 Petition is incorporated herein by reference. A copy of the Petition is attached as Exhibit "J."

28. This Petition supplements the October 19, 1994 Petition with respect to the Findings Decision which incorporates Division Order #94-B by reference.

I. THE AUTOMATIC STAY OF THE BANKRUPTCY COURT PREVENTS ENFORCEMENT OF THE FINDINGS DECISION.

On March 25, 1994, SCC filed a petition for reorganization under Chapter 11 of the United States Bankruptcy Code. Pursuant to 11 U.S.C. § 362(a), a petition filed under Chapter 11 operates to stay the commencement of judicial, administrative or other action or proceeding against the debtor to recover a claim that arose before the commencement of the case. On January 20, 1986, the Division approved SCC's MRP under the Utah Coal Regulatory Program and issued Permit No. ACT/007/007 for the Sunnyside Mine. This MRP, as subsequently renewed on January 20, 1991, constitutes the existing approved plan for reclamation of the surface disturbance of the Sunnyside Mine. SCC has filed a bond in the amount and in a form acceptable to the Division to perform all reclamation obligations imposed by the Division. On May 24, 1993, the Division found that SCC had a reclamation liability of \$1,850,184.00 and that this reclamation liability was adequately secured by a collateral bond. The Findings Decision issued post-petition improperly attempts to increase SCC's reclamation liability from \$1,850,184.00 to \$8,600,000.00. In fact, the September 23, 1993 letter accompanying the Findings Decision specifically admits that the Findings are unenforceable until the stay is lifted, as follows:

The Division believes that its appropriate relief in the first instance is to be found in the Bankruptcy Court. The Division is providing you with notice at this time of its bond Findings, and is providing these Findings to its attorneys to use in proceeding before the Bankruptcy Court for the purpose of protesting its position as a creditor . . . Subject to the approval of the Bankruptcy Court, the Division will enforce these Findings to the full extent provided by law [emphasis added].

Findings Decision, attached as Exhibit "I."

Clearly, the Findings Decision and Division Order #94-B which it incorporates are stayed by the automatic stay provisions of the federal bankruptcy code. Indeed, the Division, in its haste to assert its inflated reclamation claim prepared an Objection to Disclosure Statement which predates the Findings Decision. By Objection dated September 1, 1994, well prior to the September 23, 1994 Findings Decision, the Division prematurely asserts that SCC's reclamation plan is disapproved and that the reclamation liability has been increased to \$8.6 million. Obviously, the Division was rushing to attempt to assert its inflated and unsubstantiated reclamation claim in Bankruptcy Court. In this regard, it has abandoned its governmental function and is acting more like an unsecured creditor attempting to assert a claim. This is precisely the type of action which the automatic stay seeks to prevent. The Findings Decision, Division Order #94-B and all other post-petition action by the Division to attempt to increase SCC's pre-petition reclamation liability is stayed pending review by the Bankruptcy Court.

II. IN THE ALTERNATIVE, IF THE FINDINGS DECISION IS NOT STAYED, SCC IS STILL ENTITLED TO PURSUE ADMINISTRATIVE REMEDIES.

If the Findings Decision is not stayed, SCC has preserved its administrative remedies to challenge the Findings Decision and Division Order #94-B which is incorporated

therein. By letter dated September 23, 1994, the Division issued the Findings Decision purporting to increase the reclamation liability required for the Sunnyside Mine to \$8,600,000.00. The Findings Decision incorporates Division Order #94-B by reference. The Findings Decision and the Division Order are subject to review at an informal conference pursuant to Rule 645-301-830.422 of the Utah Administrative Code following procedures set forth at Utah Code Ann. § 40-10-13(2)(b). These provisions allow SCC the opportunity to object to the Findings Decision and reopen the issue of the adequacy of the MRP addressed in Division Order #94-B. SCC has requested this informal conference to review both the alleged increase in reclamation liability and the adequacy of SCC's pre-petition reclamation plan. A separate petition was filed on October 19, 1994, contesting Division Order #94-B, the letter of September 19, 1994, and the Findings Decision dated September 23, 1994. This petition supplements the notice of contest set forth in the October 19, 1994 petition. SCC hereby renews its request for an informal conference to review both the adequacy of SCC's pre-petition reclamation plan and the proposed increase in reclamation liability at the Sunnyside Mine.

III. THE FINDINGS DECISION IS INCONSISTENT WITH THE DIVISION'S PREVIOUS COURSE OF DEALINGS WITH SCC.

The Findings Decision represents a dramatic departure from the Division's agreement to allow SCC to proceed with reclamation under the pre-petition plan on a "design/build" basis as set forth in previous meetings and correspondence between the parties. See letter dated August 17, 1994, attached as Exhibit "D," and letter dated September 7, 1994, attached as Exhibit "F." SCC has proceeded in good faith and has worked cooperatively with the Division to address its pre-petition reclamation obligation at the Sunnyside Mine. This reclamation plan has been approved by the Division since 1986

and the reclamation liability of \$1.85 million was most recently confirmed in Division Findings dated May 24, 1993, attached as Exhibit "I." SCC has entered into a reclamation services contract with Kilter, Inc., a Utah corporation, to address reclamation of the Sunnyside Mine pursuant to the pre-petition reclamation plan. In conjunction with this contract, SCC entered into two escrow agreements by and among Zions, the Division and OSM, dated March 17 and March 22, 1994. Under the escrow agreement, proceeds from the sale of SCC's property to Kilter were to be used to fund replacement reclamation bonds with the Division and OSM.

Since SCC has filed for protection under Chapter 11 of the Bankruptcy Code, SCC has worked closely with the Division to undertake initial environmental cleanup and demolition and salvage operations consistent with its pre-petition reclamation plan. In addition, SCC has submitted a Plan of Reorganization dated June 10, 1994, to the federal Bankruptcy Court to seek approval of the sale of assets to Kilter and the related reclamation services contract. Since the bankruptcy filing, SCC and the Division have agreed that SCC is better able to reclaim the Sunnyside Mine in a cost-effective manner than the Division. The parties have also agreed that the funds available to the debtor-in-possession are best spent on actual reclamation instead of administrative, legal and engineering costs. Towards this end, the Division and SCC have agreed to proceed with reclamation on a "design/build" basis. Letter dated September 7, 1994, attached as Exhibit "F." For its part, the Division has acknowledged that SCC has proceeded with environmental compliance consistent with pre-petition conditions, including maintenance of sediment control structures, performance of required water sampling and enlargement of several sediment ponds. The Division has acknowledged that three of seven shafts have been sealed, that 100 drums of used oil and

related materials have been removed from the site for disposal and has acknowledged onsite activities including dismantling of track, power poles and the salvaging of scrap metal items. The Division has acknowledged SCC's pre-demolition environmental cleanup plan prepared by JBR Consultants Group, Inc. ("JBR"), dated July 1, 1994. This plan encompasses sampling and testing of oil-filled electrical equipment, removal of underground storage tanks and performance of an asbestos survey. See letter of August 17, 1994, attached as Exhibit "D."

The Division's Finding Decision of September 23, 1994, represented a dramatic departure from its prior course of dealing cooperatively with SCC to implement the pre-petition reclamation plan. The reasons for this departure are clearly documented in the letter dated September 23, 1994, accompanying the Division's Findings Decision attached as Exhibit "I." This letter notifies SCC that the required bond for the Sunnyside Mine has been increased by nearly \$7 million to \$8.6 million "for the purpose of protecting its position as a creditor" in proceedings before the Bankruptcy Court. This position is confirmed in the Objection dated September 1, 1994 which the Division filed with the Bankruptcy Court. This abrupt change in direction is inconsistent with the understanding of the parties, unfair to SCC and must be reversed as a matter of policy.

IV. ESTOPPEL.

Under these circumstances, the Division is estopped from enforcing the September 23, 1994 Findings Decision and Division Order #94-B. Although estoppel may generally not be asserted against the state, there is an exception to this rule "when its rigid application would defeat, rather than serve, the higher purpose that all rules are intended to serve: that of doing justice." *Utah State University v. Sutro & Co.*, 646 P.2d 715, 718

(Utah 1982). When the state's actions will result in injustice, the state may be estopped even when it acts in its governmental capacity. *Celebrity Club, Inc. v. Utah Liquor Control Com'm*, 602 P.2d 689, 694 (Utah 1979). *Plateau Mining Co. v. Utah Division of State Lands & Forestry*, 802 P.2d 720 (Utah 1990).

The elements of estoppel are: (1) an admission, statement or act inconsistent with the claim afterwards asserted; (2) action by the other party on the faith of such admission, statement or act; and (3) injury to such other party resulting from allowing the first party to contradict or repudiate such admission, statement or act. *Celebrity Club, Inc. v. Utah Liquor Control Com'm*, 602 P.2d 689, 694 (Utah 1979), citing *West v. Dept. of Social & Health Services*, 21 Wash.App. 577, 579, 586 P.2d 516, 518 (1978).

In this case, the Division is estopped from quadrupling SCC's reclamation liability when the only change which has occurred is SCC's bankruptcy and mine closure. The reclamation plan for SCC was first approved on January 20, 1986, under the Utah Coal Regulatory Program. Most recently, the MRP was renewed on January 20, 1991. On May 24, 1993, the Division found that SCC had a reclamation liability of \$1,850,184.00 and that this reclamation liability was adequately secured by a collateral bond. Between May 24, 1993 and the present, surface disturbance at the Sunnyside Mine has not increased, and in fact, due to portal closure, demolition activities and environmental cleanup, the reclamation liability has actually decreased. In addition, the Division has entered into escrow agreements associated with the Kilter reclamation services agreement which are based on a reclamation liability of \$1.8 million. These pre-petition permitting and contracting arrangements are inconsistent with the Division's recent assertion of an \$8.6 million reclamation liability. SCC has clearly acted on the pre-petition \$1.8 reclamation liability by entering into

agreements with Kilter concerning reclamation services and submitting a plan of reorganization based upon this reclamation liability.

Finally, SCC and other unsecured creditors of the bankruptcy will be injured by allowing the Division and OSM to contradict and repudiate pre-petition contracting and permitting activities which confirm the \$1.8 reclamation liability. Unless the Division is estopped, injustice will clearly result. Not only will SCC's Plan of Reorganization not be approved, but SCC may proceed from Chapter 11 to Chapter 7 bankruptcy and the unsecured claim of the Division will be increased to the detriment of other unsecured creditors. In addition, if SCC is converted to Chapter 7, the State may be required to assume the reclamation responsibility which SCC would otherwise perform. As discussed at Part V, the \$8.6 reclamation liability has been substantially inflated over the actual costs of reclamation. Therefore, there is no substantial adverse affect on public policy caused by allowing the Debtor to proceed with reclamation under its pre-petition reclamation plan. For these reasons, the Division is estopped from enforcing the Findings Decision and should extend the time period for SCC's compliance with Division Order #94-B.

V. THE DIVISION'S FINDING DECISION HAS GROSSLY OVERSTATED THE RECLAMATION LIABILITY OF THE SUNNYSIDE MINE.

A. Disturbed Area Boundaries

SCC disputes the Division's conclusion that the disturbed area boundaries do not correspond to the areas indicated on the maps and drawings. SCC agreed to meet with the Division at the mine site to clarify the disturbed area boundaries. On August 11, 1994, Director Carter visited the mine site but failed to bring technical personnel required to interpret the maps and drawings provided in the MRP. Apparently, without input from SCC, the Division has estimated disturbed acreage ranging from 200 to 400 acres. The Division

essentially admits that it is merely guessing in its estimate that there are 285 acres of total disturbed acreage. See Findings, p.1, attached as Exhibit "I." To the contrary, SCC has established that the 181.6 acres or less is the approximate disturbed area acreage approved and accepted by the Division under SCC's pre-petition MRP. In fact, since submission of the estimate of 181.6 acres, the Division has agreed to delete at least 4 acres of disturbed area located in Water Canyon. This deletion was approved by letter dated July 7, 1994 from the Division to SCC, attached as Exhibit "K." SCC disputes the disturbed acreage total set forth in Table 1 -- Summary of Reclamation Costs, and Table 2 -- Disturbed Area Acreages and seeks an informal conference to confirm the disturbed area acreage.

B. Land Use

SCC disputes the Division's conclusion that post-mining land uses set forth in its reclamation plan have not been approved. As set forth above, the MRP was initially approved by the Division on January 20, 1986 and was renewed on January 20, 1991. The post-mining land uses set forth in the approved MRP were not challenged by the Division until after SCC filed a Chapter 11 petition. SCC has met with the Division in response to Division Order #94-B and has agreed to provide information regarding alternate post-mining land use. Much of this information was to be exchanged at the mine site meeting on August 11, 1994. Unfortunately, Director Carter did not bring appropriate technical personnel to evaluate post-mining land use during his meeting with SCC at the Sunnyside Mine on August 11, 1994. SCC has also agreed to provide additional information regarding utility corridors, rights of way and facilities and has requested additional time in which to provide this information. Substantial cost savings can be realized from retention of many of the post-mining structures and facilities. The Division has admitted at page 3 of the findings

document that it gave no consideration to cost savings realized from post-mining structures or facilities. See Findings, attached as Exhibit "I." Therefore, SCC requests an informal conference to review the status of post-mining land use at the Sunnyside Mine.

C. **Demolition and Removal**

SCC challenges the Division's estimate for demolition and removal as being grossly inflated. SCC disputes the Division's demolition estimate of \$2,180,308.00. In fact, a number of the facilities scheduled for demolition and removal on Table 3 have already been removed by SCC under the supervision of the Division. Other cost estimates are clearly erroneous.

For instance, Table 3 lists general cleanup requirements, PCB removal and oil-contaminated soil removal. SCC has already initiated environmental cleanup activities and has contracted with JBR to perform testing and removal activities. The manshaft bathhouse has already been sold and is scheduled to be removed which reduces the Division's estimate by \$41,000.00. The headframe manshaft has been removed. The following items are scheduled to be sold at auction or have been sold by SCC: railroad track; mine water pipeline; and materials track. Expressions of interest have been received by SCC on the main office, warehouse, the main change house, the training building, the shop and the warehouse annex. The backfill building is a steel structure rather than a concrete structure; therefore, the cost of demolition will be commensurately lower. The preparation plant is made of concrete and steel; therefore, the demolition costs are also commensurately lower. SCC has received a bid for salvage of the backfill building, preparation plant and the blending bins. The loadout conveyor is scheduled for auction on November 17, 1994. The hoist house and the No. 3 Mine are slated for salvage. Portions of the manshaft bathhouse

have been sold. The Whitmore Canyon fan and shop fans have been sold by SCC and are being removed. The mine water tanks are scheduled for salvage. The guard rails will be salvaged. The shop fan list on page 13 may be the same thing as listed on page 10; therefore, this may be a double count. The manshaft pump house contains distribution facilities necessary to put city water to beneficial use. The Cities of Sunnyside and East Carbon have applied for an application to appropriate water from this source. Therefore, it is likely that this pump house will become a post-mining land use. The trolley wire and support structures have been removed from the site.

SCC requests an informal conference to address these and other inadequacies in the Division's demolition estimate.

D. Mine Openings

SCC disputes that 42 mine openings exist within the permit area or that these mine openings are required to be closed and sealed under the federal Surface Mining Control & Reclamation Act of 1977 ("SMCRA"). Many of the portals and shafts were constructed prior to enactment of SMCRA in 1977 and are, therefore, not required to be sealed by the operator. The MSHA mine sealing plan submitted by SCC to MSHA District 9 indicates that a total of 15 seals and concrete caps will be installed at the Sunnyside Mine consistent with MSHA regulations. SCC has already sealed three mine openings in the manshaft substation area listed at Table 4. In addition, SCC has plans to seal the Whitmore fan shaft area portals and the shop fan. SCC requests an informal conference with the Division to address these issues.

E. Backfilling and Grading

SCC disputes the cost estimates for backfilling and grading set forth at Table 5 and disputes that its current backfilling and grading plans for reclamation are inadequate. The Division admits at page 5 of the findings document that "the site consists primarily of pre-SMCRA disturbances where no topsoil materials were salvaged for redistribution." SCC is not required to reclaim pre-SMCRA disturbances. In addition, as set forth above, the 285 acres of disturbed area proposed by the Division for reclamation is mere speculation. SCC has estimated a total disturbed area for the site of less than 181.6 acres.

Contrary to the assertion of the Division, the requirements set forth at R645-301.521 are applicable to operation plans rather than reclamation plans. SCC meets the requirements for reclamation plans set forth at R645-301.542.200. Under these provisions, the mass balance calculations requested by the Division are not required. The Division has submitted a plan for backfilling, soil stabilization, compacting and grading consistent with R645-301.542.200 which the Division has approved.

SCC disputes the revegetation costs set forth at Table 7. As set forth above, SCC's existing reclamation plan includes a total disturbed area of 181.6 acres or less. Furthermore, the Division has provided no justification for its per-unit cost estimate of \$500.00 per acre.

F. Channel Reconstruction and Sediment Control

SCC disputes the costs proposed by the Division for channel reconstruction and sediment control. Furthermore, SCC disputes that the Grassy Trail Creek channel will need to be reconstructed.

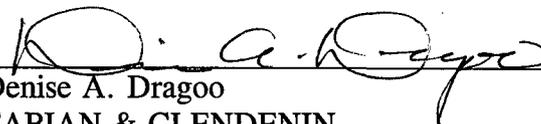
G. Other Costs Used for Determination of the Bond Amount

SCC disputes the estimate set forth at Table 1 regarding "other costs." The three categories, administrative, design and engineering one to maintenance and monitoring and contingency, appear to be redundant. In addition, these costs duplicate the estimated reclamation cost already factored into the reclamation cost summary.

CONCLUSION

In sum, SCC respectfully requests an informal conference to review these issue with the Division at the mine site in Sunnyside, Utah, following procedures set forth at Utah Code Ann. § 40-10-13(2)(b) or other procedures to be agreed to by the parties.

RESPECTFULLY SUBMITTED this 26th day of October, 1994.


Denise A. Dragoo
FABIAN & CLENDENIN,
a Professional Corporation
Attorneys for Sunnyside Coal Company

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing SUPPLEMENTAL PETITION FOR INFORMAL CONFERENCE to be hand delivered the 26th day of October, 1994, to the following:

Jan Brown
Docket Secretary
Board of Oil, Gas and Mining
3 Triad Center, Suite 350
Salt Lake City, Utah 84180

James Carter, Director
Utah Division of Oil, Gas and Mining
3 Triad Center, Suite 350
Salt Lake City, Utah 84180

Julie S. McKenzie