CORRESPONDENCE PERTINENT TO SUNNYSIDE COAL'S SUPPLEMENTAL PETITION FOR INFORMAL CONFERENCE

1. LETTER DATED APRIL 20, 1994 TO JAMES CARTER FROM DENISE DRAGOO RE DIVISION ORDER 94A

2. LETTER DATED MAY 3, 1994 TO JAMES CARTER FROM DENISE DRAGOO RE DIVISION ORDER 94A

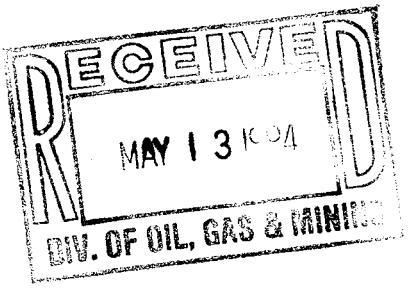
3. LETTER DATED MAY 6, 1994 TO WILLIAM HOLGATE OF MSHA FROM ROBERT BURNHAM RE SEALING OF MINE

4. LETTER DATED MAY 9, 1994 TO JOE HELFRICH FROM ROBERT BURNHAM RE HOIST HOUSE POND AS-BUILT

Sunnyside Coal Company

Operations • Highway 123 • P.O. Box 99 • Sunnyside, Utah 84539

May 9, 1994



ACT/007/047
FILE NO # 92-32-3-8
+ FOLDER #5

Mr. Joe Helfrich
Division of Oil, Gas, and Mining
Land Quality Division
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203

Re: Hoist House Pond As-built

Dear Joe,

As you are aware, Sunnyside Coal Company was forced to seek relief through Chapter 11 of the Unites States Bankruptcy Code on March 25, 1994. Because of this filing, the construction of the Hoist Pond has not preceded as originally expected. The pond is built and on-line. However, the as-built drawing due May 11, 1994, is yet to be completed.

I am requesting that the Division be lenient regarding the filing of the as-built drawing by allowing an extension to complete the work. The pond is scheduled to be surveyed in the next several weeks. The as-built drawing is to be completed by JME Companies. It is currently expected that the drawing can be submitted in about 6 weeks.

Thank you for your understanding and cooperation in this matter.

Sincerely,

Robert M. Burnham
President

RMB:sb

Corporate Offices
The Registry
1113 Spruce Street
Boulder, CO 80302
303-938-1506
FAX: 303-938-5050

Operations
Highway 123
P.O. Box 99
Sunnyside, UT 84539
801-888-4421
FAX: 801-888-2581

SUNNYSIDE COAL COMPANY
Debtor in Possession
1113 Spruce Street
Boulder, Colorado 80302
(303) 938-1506
Facsimile: (303) 938-5005

May 6, 1994

Mr. William Holgate
District Manager (9)
M.S.H.A.
P.O. Box 25367, DCF
Denver, CO 80225

Re: 75.1711, 30, C.F.R.
Sealing of Mines
Sunnyside Mine #1
I.D. No. 42-00093

Dear Mr. Holgate:

As a result of the termination of mining at the Sunnyside Mine, the following is submitted for your approval of Sunnyside Coal Companies mine closure and sealing.

All underground power will be de-energized and the surface fans will be shut down. The portals will be secured to prevent entrance into the mine, and all openings will be sealed as follows:

1. Twin Shafts and Manshaft - The Twin Shaft Fan and Manshaft Elevator will be removed and a six inch thick reinforced concrete cap will be placed over the shafts with the edges being grouted. A two-inch metal sample pipe will be installed in the caps extending 15 feet above the surface of the shafts.

2. Pole Canyon Shaft (15 Right Shaft) - The cover that is presently in place will be removed and a six inch thick reinforced concrete cap will be placed over the shaft with the edges being grouted. A two-inch metal sample pipe will be installed in the caps extending 15 feet above the surface of the shaft.

3. Whitmore Intake and Return - The Whitmore Fan and the guarding around the return shaft will be removed. A six inch thick reinforced concrete cap will be placed over the shafts with the edges being grouted. A two-inch metal sample pipe will be installed in the caps extending 15 feet above the surface of the shafts.

4. Outcrop Fan and Return Portals - The Outcrop Fan will be removed. The Intake and two return portals will be sealed according to 75.1711-2 with the exception of the sample pipe. The return seals will be installed first, followed by the

intake seals.

The shaft behind the Outcrop Sub-Station will have the existing cover removed and a six inch thick reinforced concrete cap will be placed over the shaft with the edges being grouted. A two-inch metal sample pipe will be installed in the caps extending 15 feet above the surface of the shaft. Or, because of its depth, it may be filled with noncombustible material according to 75.1711-1.

5. Number 1 Mine Portal - This portal will be sealed according to 75.1711-2 with the exception of the sample pipe.

6. Number 3 Return Shaft - The fan will be removed and a six inch thick reinforced concrete cap will be placed over the shaft with the edges being grouted. A two-inch metal sample pipe will be installed in the caps extending 15 feet above the surface of the shafts.

7. Number 3 Intake, Manway and Escapeway Portal - These three portals will be sealed according to 75.1711-2 with the exception of the sample pipe. The escapeway portal will be sealed first, followed by the Manway and then the Intake portals.

A total of 15 seals and concrete caps will be installed at the Sunnyside Mine. All closures will be installed in non-contaminated air. If a problem arises with contaminated air, a portable fan will be used to keep fresh air over the employees installing the seals and concrete caps.

An updated map of the mine will be forwarded to M.S.H.A. upon completion of the sealing program.

If you have any questions please contact Jerry Howell at the Sunnyside mine.

Sincerely,

Robert M. Burnham
President

cc: J.O. Howell

Sunnyside Coal Company
Portals & Shafts

05/05/94
09:12 AM

#	Location	Condition	Approximate Year Completed	Accessable From Underground	Northing	Easting	Comments
Portals							
P1	Columbia bleeders, No. 2 mine	Sealed		No	34,000	53,970	Arched entry, extremely difficult access from surface
P2	Columbia bleeders, No. 2 mine	Sealed		No	34,720	53,680	Extremely difficult access from surface
P3	Columbia bleeders, No. 2 mine	Sealed		No	34,800	53,720	Extremely difficult access from surface
P4	Fan Canyon portals, No. 2 mine	Sealed, pending reclamation		No	40,360	53,180	
P5	Fan Canyon portals, No. 2 mine	Sealed, pending reclamation		No	40,400	53,100	
P6	Fan Canyon portals, No. 2 mine	Sealed, pending reclamation		No	40,400	53,100	
P7	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	43,780	52,230	
P8	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	43,840	52,350	
P9	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	43,850	52,500	
P10	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	43,850	52,600	
P11	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	43,840	52,720	
P12	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	43,860	52,740	
P13	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	43,900	52,740	
P14	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	44,020	52,570	
P15	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	44,000	52,460	
P16	Water Canyon portals, No. 2 mine	Sealed, backfilled, pending seeding		No	43,950	52,300	
P17	Fowler portal, No. 2 mine	Sealed, caved		No	43,540	50,060	
P18	No. 2 Canyon portals, No. 2 mine	Sealed		No	48,110	50,130	
P19	No. 2 Canyon portals, No. 2 mine	Sealed		No	48,230	50,170	
P20	No. 2 Canyon portals, No. 2 mine	Sealed		No	48,280	50,500	Old entries which may not outcrop
P21	No. 2 Canyon portals, No. 2 mine	Sealed, reclaimed		No	48,700	50,080	Old entries which may not outcrop
P22	No. 3 slope portals, No. 3 mine	Active		Yes	49,650	49,700	
P23	No. 3 slope portals, No. 3 mine	Active		Yes	49,770	49,930	
P24	No. 3 slope portals, No. 3 mine	Active		Yes	50,070	50,030	
P25	No. 3 slope portals, No. 3 mine	Active		Yes	50,100	50,100	
P26	No. 1 slope rock tunnel, No. 1 mine	Active		Yes	51,340	50,040	
P27	Slaughter Canyon portal, No. 1 mine	Sealed, reclaimed		No	52,820	42,770	
P28	Outcrop fan portals, No. 1 mine	Sealed		Yes	55,550	44,430	Available equipment is not be able to handle steep grades encountered
P29	Outcrop fan portals, No. 1 mine	Active		Yes	55,600	44,400	Available equipment is not be able to handle steep grades encountered
P30	Outcrop fan portals, No. 1 mine	Sealed		Yes	55,700	44,360	Available equipment is not be able to handle steep grades encountered
P31	Outcrop fan portals, No. 1 mine	Sealed		Yes	55,780	44,380	Available equipment is not be able to handle steep grades encountered
P32	Outcrop fan portals, No. 1 mine	Active		Yes	55,830	44,400	Available equipment is not be able to handle steep grades encountered
P33	Outcrop fan portals, No. 1 mine	Active		Yes	55,850	44,220	Available equipment is not be able to handle steep grades encountered
P34	Outcrop fan portals, No. 1 mine	Sealed		Yes	55,800	44,090	Available equipment is not be able to handle steep grades encountered
P35	Inside raise portal, No. 1 mine	Sealed		No	55,650	42,650	Extremely difficult access from surface
P36	Inside raise portal, No. 1 mine	Sealed		No	54,520	42,460	Extremely difficult access from surface
P37	Inside raise portal, No. 1 mine	Sealed		No	57,650	42,290	Extremely difficult access from surface
Shafts							
S1	Shop fan shaft	Active	early 1950's		50,570	50,430	
S2	No. 2 Canyon shaft	Sealed, capped, awaiting reclamation	mid 1970's		50,870	57,160	
S3	Whitmore Canyon shaft	Active	late 1950's		59,440	50,620	
S4	Whitmore Canyon shaft	Active	late 1950's		59,970	50,550	
S5	Pole Canyon shaft	Open	1975		59,330	52,450	
S6	Manshaft	Active	early 1970's		65,000	47,580	
S7	Twinshafts	Active	early 1970's		64,450	47,370	
S8	Twinshafts	Active	early 1970's		64,450	47,370	
S9	Outcrop fan shaft	Open	early 1950's		56,090	44,440	

To Mine File

FABIAN & CLENDENIN

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

TWELFTH FLOOR
215 SOUTH STATE STREET
P.O. BOX 510210
SALT LAKE CITY, UTAH 84151
TELEPHONE (801) 531-8900
FACSIMILE (801) 596-2814

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WARREN PATTEN
M. BYRON FISHER
STANFORD B. OWEN
WILLIAM H. ADAMS
ANTHONY L. RAMPTON
PETER W. BILLINGS, JR.
THOMAS CHRISTENSEN, JR.
DENISE A. DRAGOO
JAY B. BELL
DANIEL W. ANDERSON
GARY E. JUBBER
ROSEMARY J. BELESS
ANNA W. DRAKE
W. CULLEN BATTLE
KEVIN N. ANDERSON†
RANDY K. JOHNSON
NORMAN J. YOUNKER
MICHELE MITCHELL†
JOHN E. S. ROBSON†
DOUGLAS B. CANNON
DOUGLAS J. PAYNE
ROBERT PALMER REES
DIANE H. BANKS
P. BRUCE BADGER
JOHN (JACK) D. RAY
CRAIG T. JACOBSEN
BRUCE D. REEMSNYDER
BROCK R. BELNAP
DOUGLAS R. BREWER
CRAIG E. HUGHES
JULIE FORTUNA
ELAYNE WELLS HARMER

†ALSO MEMBER NEVADA BAR

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PETER W. BILLINGS, SR.
RALPH H. MILLER

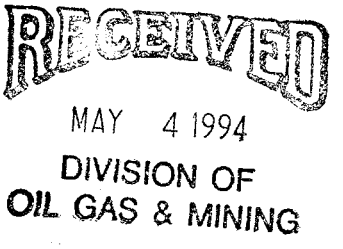
NEVADA OFFICE
2835 SOUTH JONES BLVD., SUITE 5
LAS VEGAS, NEVADA 89102
TELEPHONE (702) 367-4545
FACSIMILE (702) 252-5014

CONFIRMATION OF TELECOPY

VIA FACSIMILE

May 3, 1994

(801) 359-3940



James M. Carter
Director
UTAH DIVISION OF OIL, GAS & MINING
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

RE: Division Order #94A -- Sunnyside Coal Company
Permit No. ACT/007/007

Dear Jim:

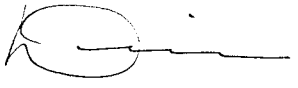
On behalf of Sunnyside Coal Company ("SCC"), this letter follows up on our meeting with you, Lowell Braxton and Tom Mitchell on Friday, April 29, 1994. It is our understanding that the requirements of Division Order No. 94A ("Order") will be addressed in an overall settlement agreement and notice of mine closure. A draft of this agreement will be prepared by SCC for submission to the Division on Friday, May 6, 1994. The parties will finalize this plan at a meeting on Tuesday, May 10, 1994 in the offices of the Division.

In addition, as indicated in our letter to you dated April 20, 1994, a portal by portal inventory could not be prepared under the time constraints under the original Order. Therefore, the Division has allowed SCC an additional two week period of time until Monday, May 16, 1994 to prepare this inventory.

We look forward to SCC's meeting with the Division on Tuesday, May 10, 1994 to review the procedural arrangements for final reclamation of the Sunnyside Mine.

Thank you for your assistance in this matter.

Very truly yours,



Denise A. Dragoo

DAD:jmc:33640

cc: Robert M. Burnham
Jack Smith, Esq.
Lowell Braxton
Randy Hardin
Daron Haddock
Thomas A. Mitchell, Esq.

FABIAN & CLENDENIN

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

TWELFTH FLOOR
215 SOUTH STATE STREET
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2835 SOUTH JONES BLVD., SUITE 5
LAS VEGAS, NEVADA 89102
TELEPHONE (702) 867-4545
FACSIMILE (702) 252-5014

VIA FACSIMILE

April 20, 1994

(801) 359-3940

James M. Carter
Director
UTAH DIVISION OF OIL, GAS & MINING
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

RE: Division Order #94A -- Sunnyside Coal Company
Permit No. ACT/007/007

Dear Jim:

This letter confirms our discussions with you on Tuesday, April 19, 1994, regarding the requirements and deadline for compliance with Division Order #94A issued to Sunnyside Coal Company ("SCC") on April 18, 1994. As we discussed, SCC currently has a mine closure plan which was approved by the Division and incorporated into the Mining and Reclamation Plan ("MRP") on October 31, 1993. Division Order #94A requires that this closure plan must be amended immediately (in less than one week) to address on a portal-by-portal basis the manner in which all breakouts will be sealed and reclaimed. In addition, the Division Order requires that the plan specify the date that the breakouts will be sealed.

As you are aware, SCC filed a petition under Chapter 11 of the Bankruptcy Code on Friday, March 25, 1994. A plan of arrangement addressing reclamation will be prepared within 120 days of the filing date. However, until this plan is accepted by the creditors, a reclamation plan cannot be finalized. Therefore, you have agreed to delete the requirement under Division Order #94A that "the plan must also specify the date that the breakouts will be sealed."

LAW OFFICES OF
FABIAN & CLENDENIN
A PROFESSIONAL CORPORATION

In addition, SCC requests an extension of 30 days from April 25, 1994 in which to respond to the Order. As we discussed, a portal-by-portal inventory cannot be prepared by SCC with its reduced staff under the time constraints currently imposed by the Order. Therefore, SCC requests an extension until Thursday, May 26, 1994, in which to submit the requested permit change.

We look forward to SCC's meeting with the Division at 9:30 a.m. on Friday, April 29, 1994, to review SCC's final reclamation plan and permit changes necessary to meet the requirements of the Division Order.

Thank you for your assistance in this matter.

Very truly yours,

Denise A. Dragoo

DAD:jmc:32899

cc: Robert M. Burnham
Jack Smith, Esq.

STATE OF UTAH
DIVISION OF OIL, GAS & MINING
DEPARTMENT OF NATURAL RESOURCES
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UTAH 84180-1203

---oo0oo---

ANALYSIS AND FINDINGS RECLAMATION BOND ESTIMATE SUNNYSIDE COAL COMPANY PERMIT NO. ACT/007/007	: :	DIVISION'S RESPONSE AND DENIAL OF REQUEST FOR INFORMAL CONFERENCE

---oo0oo---

On October 26, 1994, Sunnyside Coal Company, the Debtor in Possession ("SCC"), by and through its counsel of record, Denise A. Dragoo of Fabian & Clendenin, Salt Lake City, Utah, contested the September 23, 1994, Findings concerning the amount of the reclamation bond. Although the October 26, 1994, Petition is entitled Supplemental Pettition, it is the first petition received by the Division directed towards the reclamation bond findings. A previous petition was received concerning the Dividion Findings of Permit Inadequacy ("Division Order 94B), and was directed to the substance of that matter. Therefore, the Division finds the Supplemental Petition for an Informal Conference as the first petition directed towards the amount of the reclamation liability findings dated September 23, 1994.

The requirement for contesting a formal agency action by the Division changing the bond amount, is that the objection be filed within thirty days of the Division determination, finding, or order. The document entitled Supplemental Petition for Informal Conference dated October 26, 1994, was filed more than thirty days after the Division finding concerning amount of bond, and is therefore untimely

and time-barred as to the issue of bond amount. In addition, and moreover, even if this matter is not time-barred, the amount of reclamation liability is a matter which may be litigated only in front of the Bankruptcy Court. Therefore, Petitioner's Request for Informal Conference concerning the analysis and findings of the reclamation bond estimate is denied.

ISSUED AND SIGNED this 2nd day of February, 1995.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING

James W. Carter
Director

...your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:

BOB BURNHAM
SUNNYSIDE COAL COMPANY
1113 SPRUCE ST
BOULDER CO 80302

4. Article Number
P 074 976 267

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Address
X

6. Signature — Agent
X

7. Date of Delivery
FEB - 6 1987

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Mar. 1988 ★ U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

DENVER, CO 802
07 FEB
1995

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH
NATURAL RESOURCES
OIL, GAS, & MINING
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UTAH 84180-1203

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in Item 1 of Form 3811.

6. Save this receipt and present it if you make inquiry. ★ U.S.G.P.O. 1988-217-132

PS Form 3800, June 1985

P 074 976 267

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Sent to
BOB BURNHAM
Street and No.
SUNNYSIDE COAL COMPANY
P.O. State and ZIP Code
1113 SPRUCE ST
BOULDER CO 80302

Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$ .57
Postmark or Date	

FEB 1987 SALT LAKE CITY, UTAH USPS

DOGM JBE ACT/007/007 DENIAL BOND

SENDER: Complete items 1 and 2. When additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fee.

1. ☐ Show to whom delivered, date, and address of delivery. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:
DENISE A DRAGOO ESQ
PARSONS BEHLE & LATIMER
ONE UTAH PENN
201 S MAIN #1800
SALT LAKE CITY UT 84145

4. Article Number
P 074 974 263

5. Type of Service:
☐ Registered ☐ Insured*
☐ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

*Always obtain signature of addressee or agent and DATE DELIVERED.

6. Signature — Addressee
X

7. Signature — Agent
X

8. Addressee's Address *(ONLY if requested and fee paid)*

9. Date of Delivery
FEB 03 1995

PS Form 3811, Mar. 1988 U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH
NATURAL RESOURCES
OIL, GAS, & MINING
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UTAH 84180-1203

U.S. MAIL

PENALTY FOR PRIVATE USE $300

DOGM JBE ACT/007/007 DENIAL BOND

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

P 074 974 263

Sent to	DENISE A DRAGOO ESQ
	PARSONS BEHLE & LATIMER
	PO BOX 510210
	SALT LAKE CITY UT 84145
Postage	$.32
Certified Fee	.85
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$1.20
Postmark or Date	SALT LAKE CITY UTAH JAN 27 1995

PS Form 3800, June 1985

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge)

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.

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4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.

6. Save this receipt and present it if you make inquiry.

U.S.G.P.O. 1988-217-132

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing DIVISION'S RESPONSE AND DENIAL OF REQUEST FOR INFORMAL CONFERENCE to be mailed by certified mail, postage prepaid, on the 2nd day of February, 1995, to the following:

Denise A. Dragoo
Fabian & Clendenin
215 South State
P.O. Box 510210
Salt Lake City, Utah 84145

Bob Burnham
Sunnyside Coal Company
1113 Spruce ST
Boulder, Colorado 80302

STATE OF UTAH
DIVISION OF OIL, GAS & MINING
DEPARTMENT OF NATURAL RESOURCES
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UTAH 84180-1203

---oo0oo---

FINDINGS OF PERMIT DEFICIENCY AND ORDER DIVISION ORDER #94B PERMIT NO. ACT/007/007	: :	DIVISION'S RESPONSE AND DENIAL OF REQUEST FOR INFORMAL CONFERENCE

---oo0oo---

On October 19, 1994, Sunnyside Coal Company, the Debtor in Possession ("SCC"), by and through its counsel of record, Denise A. Dragoo of Fabian & Clendenin, Salt Lake City, Utah, seeks review of Division Order 94B (the "agency action"), issued by the Division of Oil, Gas and Mining ("DOGM") on July 7, 1994. Petitioner's challenge of DOGM's agency action is in the form of a Request for an Informal Conference pursuant to Utah Code Ann. § 40-10-13(2).

Pursuant to Utah Code Ann. § 40-10-12(3), the Division shall review outstanding permits and may require reasonable revisions or modifications to the permit provisions during the term of the permit. These modifications shall be based on written findings and subject to notice and hearing requirements established by the Act.

Under all sections of the Act, both the permittee and any interested party must file an objection to a Division determination or agency action within at least thirty days of the action. The Findings of Permit Deficiency and Order appealed by the permittee

on October 19, 1994, was issued by the Division on July 7, 1994. Therefore, the request for an Informal Conference, or for any other review of the Division's Determination of Permit Deficiency is untimely and is, therefore, time-barred by statute.

SO ORDERED this 2nd day of February 1995.

STATE OF UTAH
DIVISION OF OIL, GAS & MINING

James W. Carter
Director

CERTIFICATE OF MAILING

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- Endorse article "Return Receipt Requested" adjacent to number.

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OIL, GAS, & MINING
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SALT LAKE CITY, UTAH 84180-1203

DOGM JBE ACT/007/007 DENTAL DO94B

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1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:
BOB BURNHAM
SUNNYSIDE COAL COMPANY
1113 SPRUCE ST
BOULDER CO 80302

4. Article Number
P 074 976 266

Type of Service:
- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ COD
- ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Address
X

6. Signature — Agent
X

7. Date of Delivery
FEB - 4 1985

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

DOGM JBE ACT/007/007 DENIAL DO94B

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

P 074 976 266

Sent to	BOB BURNHAM
	SUNNYSIDE COAL COMPANY
Street and No. or P.O. Box No.	1113 SPRUCE ST
P.O. State and ZIP Code	BOULDER CO 80302
Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$ 1.50
Postmark or Date	

PS Form 3800 June 1985

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

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2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.

6. Save this receipt and present it if you make inquiry.

* U.S.G.P.O. 1988-217-132

DOGM JBE ACT/007/007 DENIAL DO94B

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Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.
1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)* 2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:
DENISE A DRAGOO ESQ
FABIAN & CLENDENIN
PO BOX 510210
SALT LAKE CITY UT 84145

4. Article Number
P 074 976 264

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Address
X

6. Signature — Agent
X

7. Date of Delivery FEB 03 1995

8. Addressee's Address *(ONLY if requested and fee paid)*

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

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P 074 976 264

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Sent to	DENISE A DRAGOO ESQ
	FABIAN & CLENDENIN
Street and No.	PO BOX 510210
P.O., State and ZIP Code	SALT LAKE CITY UT 84145
Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$ 2.52
Postmark or Date	SALT LAKE CITY, UT MAIN OFFICE FEB 2 1995 USPS

PS Form 3800, June 1985

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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.

6. Save this receipt and present it if you make inquiry. * U.S.G.P.O. 1988-217-132

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

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 L. McKenzie

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING

PERMITTEE	
Mr. Robert Burnham, President Sunnyside Coal Company P. O. Box 99 Sunnyside, Utah 84539 PERMIT NUMBER ACT/007/007 DIVISION ORDER # 94A	ORDER & FINDINGS of PERMIT DEFICIENCY

PURSUANT to R645-303-212, the DIVISION ORDERS the PERMITTEE, Sunnyside Coal Company (permittee), to make the permit changes enumerated in the findings of permit deficiency in order to be in compliance with the State Coal Program. These findings of permit deficiency are to be remedied in accordance with R645-303-220.

FINDINGS OF PERMIT DEFICIENCY

The Division finds the permit deficient in that plans for closure and sealing of portals are inadequate and unacceptable. (See attached Findings document.)

Regulation Cited: R645-301-513.500
R645-301-550

Requirements

In order to comply with this regulation, the permittee must submit a closure plan which addresses sealing and reclaiming all breakouts which is acceptable to the Division and MSHA. The plan must include backfilling the portal with at least 25 feet of non-combustible material and installing an MSHA approved seal. The plan must also specify the date that the breakouts will be sealed.

ORDER

Sunnyside Coal Company (Permittee) is ordered to make the requisite permit changes in accordance with R645-303-220 and to submit a complete application for permit change to address the findings of permit deficiency by no later than April 25, 1994. Failure to appropriately respond to this order may result in a hindrance violation.

Ordered this 18th day of April, 1994, by the Division of Oil, Gas, and Mining.

James W. Carter, Director
Division of Oil, Gas and Mining

DO94A.SUN

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING

PERMITTEE	
Robert M. Burnham, President Sunnyside Coal Company Debtor in Possession 113 Spruce Street Boulder, Colorado 80302	FINDINGS of PERMIT DEFICIENCY and ORDER
PERMIT NUMBER ACT/007/007 DIVISION ORDER # 94B	

On January 20, 1986, the Division approved the mining and reclamation plan (Plan) and under the Utah Coal Regulatory Program, issued a permit (Permit) to Sunnyside Coal Company (the Permittee). The Plan, as amended or revised in conjunction with the Act and the Rules, and the subsequently renewed Permit, issued on January 20, 1991, constitute the currently approved Plan for reclamation of the surface disturbance of the Permit area.

The provisions of the Act and the Rules are incorporated by reference herein and hereby made a part of this Division Order. Provisions of the Act or Rules shall supersede conflicting provisions of this Division Order or the approved Plan. The Permittee has agreed to comply with all terms and provisions of the Plan, the Act and the Rules, including the reclamation of all areas disturbed by surface coal mining and reclamation operations, despite the eventuality that the cost of actual reclamation may exceed the bond amount.

Pursuant to R645-303-212, the Division orders the Permittee, Sunnyside Coal Company, to make the permit changes enumerated in these Findings of Permit Deficiency in order to be in compliance with the State Coal Program. The deficiencies are to be remedied in accordance with R645-303-220.

FINDINGS OF PERMIT DEFICIENCY

The information contained in the text of the Plan has been determined to be inadequate to meet the requirements of the Act and the Rules. Excerpts of the information found in the currently approved mining and reclamation plan are attached for reference as "Attachment A".

In general, the maps and text within the plan regarding reclamation have been found inadequate by the Division to demonstrate compliance with the design and performance standards for reclamation mandated in the coal rules.

R645-301-100. Permit Area.

Plates 3-20 through 3-24 are provided in the plan to delineate pre and post law disturbed areas. These maps indicate those areas which were considered pre law disturbance, and, those areas considered to be post law disturbance (area disturbed or redisturbed after 1977 & under bond).

The delineation of these areas as provided by the permittee is inadequate. The areas delineated by the Permittee as post-law disturbance do not incorporate all areas affected by surface mining operations subsequent to 1977 within the permit area. In delineating the disturbed and bonded areas within the permit area, the Permittee has failed to incorporate portal highwalls and face-up areas associated with active mine openings. The Permittee has failed to include cut and fill areas associated with pads and roads currently used by mining operations. Such cut and fill structures are integral parts of the roads, pads and other facilities used during mining operations. Drainages and diversions which have been affected by post-law mining operations are incorrectly shown as lying outside of the disturbed and bonded areas. Without incorporation of these area into the bonded and disturbed area boundaries, the Permittee cannot effectively reclaim the area to meet post-mining land use or approximate original contour requirements.

R645-301-410. Land Use.

Section 3.5.3.2 of the plan describes the removal of surface structures. The permittee states that, at the conclusion of mining, all surface structures, with the exception of those permanent structures marked on Plate III-1 and noted on Table III-1, will be dismantled, removed and the land graded to blend with the surrounding areas. Outlying surface facilities including portals, ventilation shafts, substations, upper bathouse, equipment and material storage areas, preparation plant, power transmission lines, mine water lines, methane borehole pad and pipeline, and unit train loadout, will be dismantled and eliminated.

The Permittee further states that, "most roads will be left to provide access for grazing and recreational activities. Those roads not left for future uses will be ripped, contoured and revegetated. The roads which will not be reclaimed are illustrated on Plate III-1. Water supply facilities will remain after completion of mining to supply culinary water to residents of the towns. Since new mines are being planned in nearby areas, it is believed the towns will remain occupied beyond the projected life of the existing mine."

The Permittee has failed to demonstrate that the proposed post-mining land uses meet the regulatory requirements. All permanent structures and facilities, including permanent diversions and impoundments, must be located and identified by

the Permittee and submitted to the Division for approval. Each structure proposed for retention must adequately demonstrate, by design and supporting calculations, compliance with the performance standards of the Rules as they apply. All structures and facilities to be left as part of the approved post-mining land use shall adequately demonstrate that the retention, modification or use of the structure constitutes a higher or better land use.

Higher or better uses may be approved by the Division as alternative post-mining land uses, with permanent structures or facilities to remain as part of the approved post-mining land use, after consultation with the landowner or the land management agency having jurisdiction over the lands, if; 1) there is a reasonable likelihood for achievement of the use; 2) the use does not present any actual or probable hazard to public health or safety or threat of water diminution or pollution and; 3) the use will not be impractical, unreasonable or inconsistent with applicable land-use policies or plans, involve unreasonable delay in implementation, or cause or contribute to violation of federal, Utah, or local law. Such a demonstration has not been presented in the Plan. Currently, information in the Plan fails to describe how such facilities and structures will be used in conjunction with the post-mining land uses, or how the implementation or use of such structures and facilities will constitute a higher or better land use.

Section 3.5.3.2 of the plan describes the removal of surface structures. This section refers to Plate III-1 and Table III-1 as the exhibits identifying the structures to remain as permanent. In referring to Plate III-1, structures including, but not limited to, the mine office, shops, warehouse facilities, pump houses, impoundments, and other numerous facilities are marked as "permanent". No justification or criteria is presented in the Plan to demonstrate that the retention of these structures constitutes a higher or better land use, or that these structures are retained in support of an alternate post-mining land use. Accordingly, the Division cannot substantiate that the reclamation plan regarding retention of such structures meets the minimum regulatory requirements. The reclamation plan must be revised to meet the regulatory requirements regarding post-mining land use and the retention of structures in support of that use.

Section 3.5.3.2 of the Plan provides that most roads will be left to provide access for grazing and recreational activities. No justification or information is provided in the Plan to demonstrate that the retention of the roads indicated on Plate III-1 is appropriate for the post-mining land use, nor is there a demonstration that the retention of these roads constitutes a higher and better use in comparison to pre-mining land use conditions.

Roads, structures and transportation facilities within the permit area which are to remain as part of the post-mining land use must have an adequate justification for

their retention. Any roads to remain must be shown to be suitable for an appropriate post-mining land use. In the event that roads are to be left or retained as public roads, documentation must be provided to demonstrate that suitable agreements have been reached for rights-of-way and maintenance. Similarly for the railroad facilities, rights-of way, leases or other documentation must be provided to demonstrate responsibility for the retained trackage.

Section 3.5.3.3 of the plan discusses the disposition of the Grassy Trail dam and reservoir. This facility was constructed in 1952 and is jointly owned by Sunnyside Reclamation and Salvage, Inc., and BP Coal America, Inc., who holds the majority of the interest. The reservoir provides culinary water to the towns of Sunnyside and East Carbon as well as to the mine facilities of the two companies. The Plan indicates that the Permittee will maintain ownership of and liability for the reservoir after expiration of the Permit if ownership is not transferred to the towns. If ownership of Grassy Trail reservoir is transferred to another party, public or private, prior to bond release, Kaiser Coal Corporation is to renovate the dam to design specifications previously approved by the Dam Safety Division of the State of Utah prior to transfer.

No affirmative demonstration of the rights and responsibilities for retention of this impoundment is provided in the plan. No information demonstrating that the retention of the reservoir constitutes a higher and better use as an alternate post-mining land use has been provided in the Plan. The requirements for the renovation of the dam structure have not been included in the Plan. Although the impoundment was exempted from the inspection requirements under MSHA regulations, the structure was constructed and used for mining operations. Accordingly, the Plan must demonstrate that the structure will meet all applicable federal, state and local laws regarding retention of the impoundment as part of the post-mining land use. If ownership of the structure is transferred prior to bond release, provision must be made to clearly show the acceptance of liability for the retention of structures for alternate post-mining land uses.

R645-301-500 Engineering.

Backfilling and grading plans for reclamation of the surface facilities and operations are inadequate. In section 3.5.4 of the plan, the Permittee states that, "each site to be disturbed will be contoured to blend with adjacent undisturbed areas. They may not be returned to original contours, as those are unknown in several instances." The permittee further states that, "the post-mine contours will remain approximately the same as the current contours. Final leveling and regrading changes will typically be so small, they will no[t] appear on the map. The final contours will approximate those shown on Plate III-1."

Plate III-1 is found by the Division to be inadequate to show the final configuration of the surface mining operations to be reclaimed. First, the map is an enlarged version of USDOI 7.5 minute series topographic maps. At their original scale, the scale of these maps is 1 inch = 2000 feet and show only 40 foot contour intervals. The Permittee has photographically enlarged these maps to 1 inch = 500 feet, which does not increase the accuracy or the detail of the drawings. Utilization of Plate III-1 as the final configuration of the mined areas to be reclaimed is wholly inadequate.

Contour information as provided on these drawings not only fails to clearly show the location and the extent of the current mining operations, but provides no detail with regard to the design detail for reclamation. No cross-sections have been provided to show that slopes will be regraded to approximate the original pre-mining surface configuration. No maps or cross-sections for reclamation backfilling and grading have been provided to demonstrate that the site will achieve approximate original contour. No detailed design information such as maps, cross sections or mass balance calculations have been provided to show that suitable reclamation of the surface operations can be accomplished. No design information or justification has been provided to indicate that all reasonably available spoil materials will be utilized during reclamation to achieve approximate original contour, as required by the Coal Program. No cross-sections or design details have been provided to demonstrate that highwalls will be eliminated.

In essence, no backfilling and grading plan has been presented in the permittee's reclamation plan. Accordingly, the Division finds that the Plan lacks design and performance criteria requisite to backfilling and grading, and lacks a demonstration that reclamation of the site will achieve approximate original contour.

R645-301-700 Hydrology

Section 3.5.3.3 of the plan indicates that, "no diversion structures are currently planned, but if they are constructed, permits will be obtained prior to construction and reclamation will be in conjunction with adjacent disturbed areas." In section 3.5.4.1, the permittee indicates that specific postmining drainage designs and measures that will be used during the final reclamation phase is contained in Appendix III-12, Post Mining Hydrologic Design.

Appendix III-12, Post Mining Hydrologic Design, could not be found within the text of the currently approved plan. Further, no plans or other requirements to re-establish the drainages affected by surface operations could be found within the text of the Plan.

Grassy Trail Creek has been channelized throughout most of the area affected by mining. Numerous operational disturbed and undisturbed diversions exist within the permit area which have altered drainage patterns. The permittee must provide a comprehensive reclamation plan with sufficient designs and maps to show that drainage areas and permanent diversions will be re-established to comply with the design and performance standards of the rules.

Requirements

In order to comply with this Division Order, the Permittee must comply with the following requirements:

Reclamation Plan.

In accordance with the requirements of R645-301 and R645-302, the Permittee must provide a plan for the reclamation of the lands within the permit area, showing how the Permittee will comply with the regulatory program and the environmental protection performance standards. The plan shall, at a minimum, contain the following information for the permit area: 1) a detailed timetable for the completion of each major step in the reclamation plan; 2) a detailed estimate of the cost of the proposed reclamation operations required to be covered by a performance bond, with supporting calculations for the estimates; 3) a plan for backfilling, soil stabilization, compacting, and grading, with contour maps or cross-sections which show the anticipated final surface configuration of the proposed permit area; 4) a plan for redistribution of topsoil, subsoil, and other material, along with a demonstration of the suitability of topsoil substitutes or supplements; 5) a plan for revegetation including, but not limited to, descriptions of the schedule of revegetation, species and amounts per acre of seeds and seedlings to be used, methods to be used for planting and seeding, mulching techniques, irrigation, if appropriate, pest and disease control measures, if any, measures proposed to be used to determine the success of revegetation, and a soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation; 6) a description of measures to be employed to ensure that all debris, acid-forming and toxic-forming materials, and materials constituting a fire hazard are disposed of appropriately, and a description of the contingency plans which have been developed to preclude sustained combustion of such materials; 7) a description, including appropriate cross-sections and maps, of the measures to be used to seal or manage mine openings, and to plug, case, or manage exploration holes, other bore holes, wells, and other openings within the proposed permit area and; 8) a description of steps to be taken to comply with the requirements of the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act and other applicable air, water and waste management laws and regulations, and health and safety standards.

The Permittee shall submit a schedule indicating the sequence and timing of the required reclamation activities for each sub-area within the Permit area. This schedule shall show the logical progression of the reclamation activities, clearly indicating which activities must be completed prior to initiation of other reclamation treatments, and/or which activities can occur concurrently. The reclamation activities should include, but not be limited to; demolition, installation of surface drainage control structures, installation of sediment control structures, non-coal waste disposal, closure of mine openings, backfilling and grading of disturbed areas, resoiling, soil amendments, revegetation, and modification or reconstruction of facilities or structures to be left as part of the approved post-mining land use.

Field changes or alterations of the final surface configuration due to site constraints or conditions which were not considered in the reclamation design work will be allowed by the Division only when such changes do not significantly affect or diminish the approved design or function of the intended reclamation treatments. Such field changes shall be presented to the Division as part of the as-built reports and other information required in the bond release application prior to consideration for phased bond release.

Land Use.

In accordance with the requirements of R645-301-400, the Permittee must provide a detailed description of the proposed use, following reclamation, of the land to be affected within the proposed permit area by surface operations or facilities, including a discussion of the utility and capacity of the reclaimed land to support alternative uses, and the relationship of the proposed uses to existing land-use policies and plans. This description must explain: 1) how the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use; 2) where a land use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use and; 3) the consideration given to making all of the proposed post-mining activities consistent with surface owner plans and applicable State and local land-use plans and programs.

The description must be accompanied by a copy of comments concerning the proposed use from the legal or equitable owner of record of the surface of the permit area and the State and local government agencies which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation. Alternative post-mining land uses may be approved. However, before approval, the Permittee must first demonstrate that the land can be returned to its pre-mining land use capability.

Other facilities, including utilities corridors and right-of-ways into and through the permit area, shall be adequately described and characterized in the Plan. Where necessary, the description shall explain any constraints or restrictions regarding the facilities which would limit or restrict reclamation activities within the surface disturbed areas, especially with regard to any effect on AOC requirements. The description will be accompanied by a copy of such documents concerning the existing or proposed use by the legal or equitable owner of record of the surface or surface use of the permit area, and Utah and local government agencies which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

Conduct of Reclamation Operations

In accordance with the requirements of R645-301-515, the Permittee shall provide a statement of the exact number of surface acres disturbed, a map(s) showing those surface disturbed areas, and a map showing the horizontal and vertical extent of subsurface strata (mine workings) in the permit area immediately prior to cessation of operations. The Permittee will close or backfill or otherwise permanently reclaim all affected areas, in accordance with the R645 Rules. The Permittee shall assure that final fills containing spoil or other waste materials are suitable for reclamation and revegetation and are compatible with the natural surroundings and the approved post-mining land uses. All surface equipment, structures, or other facilities not required for continued mining and reclamation activities and monitoring, unless approved by the Division as suitable for the post-mining land use or environmental monitoring, will be removed and the affected lands reclaimed.

Prior to conducting backfilling and grading operations, the Permittee shall complete the demolition and removal of structures and facilities within the area to be backfilled. All non-coal waste materials, PCB or oil-contaminated materials or soils, or other materials subject to specialized treatment or disposal shall be removed and disposed of in a state-approved waste disposal facility and in accordance with any other federal, state or local regulations as they apply. Inert materials, such as concrete, may be disposed of on-site where the location and method of disposal has been identified by the Permittee and approved by the Division.

For any reclamation activities which may alter or adversely affect surface disturbed or undisturbed drainages or sediment controls within the surface disturbed areas, the Permittee shall notify the Division in writing within 15 days prior to commencement of such reclamation activity. Prior to commencement of any reclamation activities, adequate drainage and sediment control measures must be established and operational.

ORDER

Sunnyside Coal Company is ordered to make the required permit changes in accordance with R645-303-220 and to submit a complete application for permit change to address these Findings of Permit Deficiency, or to provide an acceptable schedule for providing such permit changes, within 30 days of date of the Order. Approval by the Division must be obtained within 60 days of date of this Order. If approval is not obtained within 60 days, a hindrance violation may be issued.

Ordered this 7th day of July, 1994, by the Division of Oil, Gas, and Mining.

James W. Carter, Director
Division of Oil, Gas and Mining

Attachment A

(Figure III-2). It is located at the northeast end of the East and West Slurry Pond Cells of the refuse disposal area (Plate III-1). The dump was constructed and is used by excavating a trench, compacting the sides and bottom for a water barrier, filling the trench with non-coal waste and then covering the waste with a minimum of two feet borrow material.

The present industrial waste location has one to two years additional capacity. The operator will submit a new location to DOGM for approval after a new site has been located.

All other non-coal waste is sent to the East Carbon City landfill for disposal. The Authorization letter from East Carbon City (Figure III-7) allows the operator use of their landfill for disposal of non-industrial wastes.

3.4.9.2 Control Measures to Mitigate Impacts

Based on the characteristics, handling and disposal of various waste products discussed in Section 3.4.9.1 above, the impact of the environment is expected to be minimal.

The slurry refuse does not go into the hydrologic system.

The coarse refuse is covered with non-combustible waste material and compacted to eliminate ignition effect, if any, on the surface.

No additional waste facilities are planned, since the existing structures should have sufficient capacity to last throughout the proposed permit period.

3.5.1 Reclamation Plan

The reclamation and revegetation plans are designed to return the disturbed lands to productive uses once mining activities have ceased. These post-mine land uses will be the same as the current and pre-mine uses, i.e., fish and wildlife habitat, recreation, and livestock grazing.

The majority of the areas were disturbed prior to the Coal Mine Reclamation Act of 1977. The affected acreage of all disturbed areas is minimal. Because topsoil was not saved prior to the Act, many of these areas will be revegetated without topsoil. Although the plans utilize state-of-the-art reclamation

methods, these plans will be revised as new materials and techniques become available.

Site stabilization and erosion control will be obtained through application of the reclamation and revegetation procedures described in Chapters III, VIII and IX. All of the techniques described are proven techniques, either through the operators' experience or from the literature.

3.5.1.1 Contemporaneous Reclamation

Contemporaneous reclamation has been ongoing at Sunnyside for many years. Although written records were not kept, we do know that plantings of crested wheatgrass began in the late 1950's. The streamsides have been reseeded along channelized sections of Grassy Trail Creek, areas adjacent to roads and vacant areas next to buildings.

Variations in the coal market constantly affect the rate and occurrence of mining activities, therefore it is not practical or possible to present a specific timetable for most reclamation activities. Very few contemporaneous reclamation activities are scheduled during this permit term. No final reclamation is planned at the end of the five year permit term. Timing of all reclamation activities will generally follow the sequential schedule presented in Table III-42. The revegetation process will be most successful by adhering to the revegetation schedule in Table III-26.

Areas adjacent to any future disturbances will be revegetated as part of contemporaneous reclamation. Contemporaneous reclamation includes:

(1) Slaughter Canyon Portal Area portal (P 19,) which provided access to the outside raise areas of the No. 1 Mine (Plate III-4) and the adjacent materials storage facility was not needed after early 1981. The portal was sealed in 1982 according to MSHA regulations. The portal and road area were both revegetated in 1983 according to the plan submitted to and approved by DOGM (Appendix III-4).

(2) Coarse Refuse Disposal Area (D2) (Plate III-5) is in a state of ongoing construction and reclamation. The pile is constructed in 50-foot vertical increments with 20 foot wide terraces constructed for water runoff and erosion control. Lifts are made in 3-foot increments of compacted refuse. Revegetation test plots of coarse refuse are being used to determine the amount and type of cover material necessary to support diverse and effective

vegetative growth. After the material and depth of cover are approved by DOGM, cover and revegetation will begin on the slopes and will be ongoing throughout the life of the mine.

Disturbances created prior to the ACT are delineated on Plates III-20 through III-23. Typically these pre-law disturbances were revegetated with crested wheatgrass. The maps make clear the level of reclamation required as currently interpreted by the DOGM.

Those disturbed areas which have been revegetated prior to the ACT were mapped in the fall of 1983 and are also shown on Plates III-20 through III-23. These maps delineate pre-law areas which remain to be revegetated and will enable determination of the level of reclamation required for any pre-law areas which may be redisturbed.

3.5.1.2 Soil Removal and Storage

Because the Sunnyside Mines have been active since the late 1800's, the permit area includes 136.645 acres of land were disturbed prior to the 1977 Act that did not require topsoil removal before mining or surface facilities construction. The present status of this land includes active and inactive non-reclaimed areas as well as some reclaimed sites.

The 83 acres encompassed by the refuse and slurry piles will remain active until cessation of mining activities, although some reclamation of this area will occur contemporaneously.

Very little topsoil will be available for use in reclamation for any lands that were disturbed prior to the 1977 Act because topsoil material was not salvaged. In addition, estimation of the available in-place soil quality or quantity is difficult because many large areas have been disturbed, regraded, and spread with clinker and some of these areas have been revegetated. No records exist about disturbances, but we do know that part of the main facilities are located on a pre-existing townsite and that much of Grassy Trail Creek has been channelized, resulting in increased perturbation of the soils.

Large portions of the facilities are located over the HBC (Haverson fine sandy loam) mapping unit, which has an average depth of sixty inches (Plate VIII-1). Potentially, this material is available for revegetation. Although this soil becomes increasingly alkaline with depth, the texture remains suitable for plant growth. The extent of activities on this soil series in unknown, but no toxic materials were present in the test pits.

CHAPTER III

In order to characterize and determine the extent of the in-place soils in these areas, several test pits were dug around the facilities in the fall of 1983.

Within each soil pit, soil samples were taken at twelve inch increments. A visual examination of soil texture, color, and quality was also made. Details concerning the sampling methods, laboratory procedures, and results are contained in Chapter VIII.

Prior to re-disturbance of some areas, seven stockpiles of soil materials were saved from several sites. The histories of these soils are unknown. The location of each soil material stockpile is indicated on Plate VIII-1, and the quantity of material contained within each stockpile is indicated as follows:

QUANTITIES OF STOCKPILED TOPSOIL

Stockpile Location	Quantity
East Borrow Pit	36,600 cu ft
No. 3 Hoisthouse Pond	4,200 cu ft
Slurry Pond Pile	127,900 cu ft
Haul Road Pile	102,200 cu ft
Reclamation Test Plot	67,500 cu ft
Twinshaft Pond	32,600 cu ft
Rail Cut Pile	15,800 cu ft
Total	386,800 cu ft

The soils contained in these stockpiles are currently committed for use in topsoiling the sites from where the soils were removed.

Several borrow areas have been identified for use in future reclamation (Plate III-1). The quantity of borrow material that will be required to cover the portals and other areas is identified by reclamation area in Table III-9. The quantity of borrow material that is available is identified by Borrow Area in the

table shown below. The total amount of borrow material that will be required is about 427,700 cu yd; the amount of material available is 683,650 cu yd. It is anticipated that all of the borrow material will be taken from Borrow Areas 1 through 5. If more borrow material is required, Reclamation Area 1 can be expanded to the south for a considerable distance. Grassy Trail Dam Borrow Area will be used only if conditions at the end of mining warrant.

Available Industrial and Reclamation Borrow Material

Borrow Area	Acres	Depth (ft.)	Cubic Yards Available
(1) Industrial Area 1	3.42	8.5	46,899
(2) Industrial Area 2	3.25(1)	0.0	-0-
(3) Industrial Area 3	3.36(2)	12.0	32,525
(4) Reclamation Area 1	30.14	12.0	550,726
(5) Grassy Trail Borrow(3)	-----	----	8,500
TOTAL			638,650

(1) Industrial Borrow Area 2 has been used for industrial purposes and is substantially gone.

(2) Approximately 10 ft. of this material has been used and 6 ft. remains in place.

(3) Grassy Trail Dam Borrow Area is a slide area and the acres and depth have not been determined. This area was approved by DOGM in a letter dated November 27, 1984 (Figure III-4).

Some of the borrow areas fall on the property currently owned by Sunnyside Fuel Corporation. The Sunnyside Mines operator has rights to access the borrow areas to use topsoil and subsoil for reclamation on the Sunnyside Mines property during contemporaneous or final reclamation.

Test pits were dug to identify and evaluate the soil materials in these borrow areas. Information concerning the test methods, laboratory procedures, and results are discussed in Chapter VIII. It should be noted that the extent and quantity of these borrow materials is limited, and the material available will not adequately cover all areas that have been disturbed. In order to cover the entire 282.55 acres of disturbance with 12" of topsoil, 455,847 cu. yds. of material would be required.

Because the practice of borrowing topsoil material requires the area be disturbed, this ultimately results in more acres being disturbed and reduces the total productivity. Therefore, borrow area materials use will be limited. These soils will only be used on areas where vegetation is not successful, or in other required circumstances such as covering the coal seams, refuse areas or portals.

Revegetation test plots have been approved by the DOGM and will evaluate revegetation success under several soil depths, amendments, and seeding regimes (Appendix VIII-3). The results of these tests should provide information concerning the most appropriate reclamation techniques and procedures to ensure revegetation success.

Any areas contaminated with oil or other petroleum products will be excavated and the material disposed in the refuse pile. These areas are expected to be few and small in extent, and will be covered with soil material and then revegetated.

Additional surface disturbances within the permit area are not currently anticipated. If any new areas are to be disturbed in the future, a permit amendment will be submitted to DOGM containing details of the site specific plans for topsoil removal, testing, stockpiling, and redistribution.

Handling of topsoil during mining operations involves removal of vegetation, topsoil stripping, stockpiling, and replacement of the topsoil onto the areas to be reclaimed. Trees and large shrubs will be removed prior to topsoil removal. Small shrubs, grasses, and forbs will be collected with the topsoil material since these materials increase both the available organic matter in the soil and the available seed stock. Topsoil will be removed to a depth determined by information contained in Appendix VIII-1 and confirmed in the field.

Stockpiles will be contoured, stabilized, and protected from wind and water erosion by seeding with rapidly establishing grass and forb species. Fertilizer will not be required for stockpiles. Stockpiles will be seeded with the sage/grass seed mix shown in Figure III-8 that was approved by DOGM on November 4, 1986. Because contractors are frequently used at the Mines for reclamation efforts, the precise equipment that will be used cannot be predicted. However, standard reclamation equipment and techniques will be employed in order to ensure stabilization and vegetation success.

Those disturbed areas which have been revegetated prior to the ACT were were mapped in the fall of 1983 and are also shown on Plates III-20 through III-23. These maps delineate pre-law areas which remain to be revegetated and will enable determination of the level of reclamation required for any pre-law areas which may be redisturbed.

Upon completion of the Methane Drainage Borehole facility, as soon as weather conditions allow, the drill pad will be permanently reclaimed as outlined in section 3.5.5., except for the wellhead and shack. The access road shown on Plate III-1Di is temporary, to be used only during facility construction. The temporary access road will also be reclaimed upon completion of the facility, and will not be used except for emergencies after reclamation.

3.5.1.2 Soil Removal and Storage

Because the Sunnyside Mines have been active since the late 1800's, the permit area includes 136.645 acres of land were disturbed prior to the 1977 Act that did not require topsoil removal before mining or surface facilities construction. The present status of this land includes active and inactive non-reclaimed areas as well as some reclaimed sites.

The 83 acres encompassed by the refuse and slurry piles will remain active until cessation of mining activities, although some reclamation of this area will occur contemporaneously.

Very little topsoil will be available for use in reclamation for any lands that were disturbed prior to the 1977 Act because topsoil material was not salvaged. In addition, estimation of the available in-place soil quality or quantity is difficult because many large areas have been disturbed, regraded, and spread with clinker and some of these areas have been revegetated. No records exist about disturbances, but we do know that part of the main facilities are located on a pre-existing townsite and that much of Grassy Trail Creek has been channelized, resulting in increased perturbation of the soils.

Large portions of the facilities are located over the HBC (Haverson fine sandy loam) mapping unit, which has an average depth of sixty inches (Plate VIII-1). Potentially, this material is available for revegetation. Although this soil becomes increasingly alkaline with depth, the texture remains suitable for plant growth. The extent of activities on this soil series in unknown, but no toxic materials were present in the test pits. In order to characterize and determine the extent of the in-place soils in

these areas, several test pits were dug around the facilities in the fall of 1983.

Within each soil pit, soil samples were taken at twelve inch increments. A visual examination of soil texture, color, and quality was also made. Details concerning the sampling methods, laboratory procedures, and results are contained in Chapter VIII.

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No topsoil is currently stockpiled for the reclamation of the West Slurry Cell Area. Consequently, SCC intends to use substitute soil from the Topsoil Borrow Area (Plate III-1, 1 of 3, "Surface Facilities, Hydrology, and Pre-law Disturbance Vegetation"). The substitute soil material available from the Topsoil Borrow Area is virtually the same soil material adjacent to the Coarse Refuse Pile. The soil is the Strych soil type, and is discussed in Chapter VIII.

3.5.3 Final Abandonment

3.5.3.1 Sealing of Mine Openings

Shaft openings required to be sealed shall be effectively capped (Plate III-18 1 of 3). The cap will consist of a six-inch thick concrete and a steel plate cap with a 25-foot high, 2-inch steel vent pipe above the surface of the shaft.

Slope or drift openings will be sealed with an MSHA approved seal or be completely filled with noncombustible material for a distance of at least 25 feet into such openings.

There are 41 mine portals and shafts within the Sunnyside permit area that will be permanently sealed during abandonment. These portals are specifically located on Plate III-1.

At most mine openings, highwall reduction will place sufficient material over any concrete portal material to eliminate any additional work. In instances where the concrete portal material may be visible after regrading, the portal structure will be demolished and placed inside the portal against the permanent seal.

There are a limited number of portals that were broken to the surface from workings inside the mine. Many of these portals are located on top of sandstone cliffs and are inaccessible except by walking and pack horse. These portals will be blasted shut for at least 25 feet from the portal, if possible, to prevent access.

The plugging and management of drill holes will adhere to the procedures stipulated by the United States Geological Survey as detailed in Table III-4. See Table III-10 for drill hole sealing and casing costs.

The Methane Drainage Borehole will be reclaimed as shown on Table III-10 unless a Permit Change designating a post mining use is approved by the Division.

Refer to Section 3.5.7.1 for the cost estimate for sealing shafts and portals.

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3.5.3.2 Removal of Surface Structures

(a) At the conclusion of mining, all surface structures, with the exception of those permanent structures marked on Plate III-1 and noted on Table III-1, will be dismantled, removed and the land graded to blend with the surrounding areas. The archway over the No. 2 Canyon Drainage is a temporary design and will be removed during final reclamation.

(b) Outlying surface facilities including portals, ventilation shafts, substations, upper bathhouse, equipment and material storage areas, preparation plant, power transmission lines, mine water lines, methane borehole pad and pipeline, and unit train loadout, will be dismantled and eliminated.

(c) Most roads will be left to provide access for grazing and recreational activities. Those roads not left for future use will be ripped, contoured and revegetated. The roads which will not be reclaimed are illustrated on Plate III-1.

(d) The area at the mouth of Pasture Canyon, containing the rodeo grounds and stables will be left intact.

(e) The water supply facilities will remain after completion of mining to supply culinary water to residents of the towns. Since new mines are being planned in nearby areas, it is believed the towns will remain occupied beyond the projected life of the existing mines.

(f) The preparation plant reject and industrial waste disposal facilities are in areas approved by MSHA and the Utah State Department of Health (see Plates III-1 and III-5). During the period the disposal sites are active, they will conform to applicable state regulations such as degree of slope, compaction, and coverage with inert material. Upon completion of mining activity, these areas will be scarified, covered with topsoil or material capable of supporting plant life, if necessary, and revegetated. Disposal and regrading are ongoing processes. Plans for final revegetation for the refuse are still being evaluated (Chapter VIII and 3.5), however, a conservative estimate of borrow cover and revegetation are included in the bond calculations.

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3.5.3 Final Abandonment

3.5.3.1 Sealing of Mine Openings

Shaft openings required to be sealed shall be effectively capped (Plate III-18 1 of 3). The cap will consist of a six-inch thick concrete and a steel plate cap with a 25-foot high, 2-inch steel vent pipe above the surface of the shaft.

Slope or drift openings will be sealed with an MSHA approved seal or be completely filled with noncombustible material for a distance of at least 25 feet into such openings.

There are 41 mine portals and shafts within the Sunnyside permit area that will be permanently sealed during abandonment. These portals are specifically located on Plate III-1.

At most mine openings, highwall reduction will place sufficient material over any concrete portal material to eliminate any additional work. In instances where the concrete portal material may be visible after regrading, the portal structure will be demolished and placed inside the portal against the permanent seal.

There are a limited number of portals that were broken to the surface from workings inside the mine. Many of these portals are located on top of sandstone cliffs and are inaccessible except by walking and pack horse. These portals will be blasted shut for at least 25 feet from the portal, if possible, to prevent access.

The plugging and management of drill holes will adhere to the procedures stipulated by the United States Geological Survey as detailed in Table III-4. See Table III-41 for drill hole sealing and casing costs.

Refer to Section 3.5.7.1 for the cost estimate for sealing shafts and portals.

3.5.3.2 Removal of Surface Structures

(a) At the conclusion of mining, all surface structures, with the exception of those permanent structures marked on Plate III-1 and noted on Table III-1, will be dismantled, removed and the land graded to blend with the surrounding areas.

If ownership of Grassy Trail Reservoir is transferred to another party, public or private, prior to bond release, Kaiser Coal Corporation will renovate the dam to design specifications previously approved by the Dam Safety Division of the State of Utah prior to transfer.

(b) Sediment ponds

All sediment control ponds no longer needed when reclamation of the disturbed area is completed, will be contoured and revegetated. See Table III-21 for pond reclamation requirements.

(c) Diversions

No diversion structures are currently planned, but if they are constructed, permits will be obtained prior to construction and reclamation will be in conjunction with adjacent disturbed areas.

(d) Slurry Ponds

Fine refuse from coal cleaning is sent to several slurry ponds. Clarified water is recovered for irrigation of alfalfa or released to Grassy Trail Creek. Upon completion of mining, these ponds will be filled, graded, covered with soil or suitable borrow material and, if necessary, revegetated.

(e) Coarse Refuse Pile

During Final Reclamation the surface drainage from the slopes and terraces of the reclaimed waste banks will be handled by a 36" concrete culvert and drop boxes shown on Plate III-40, Map D4-0130 & Plate III-40, Map D4-0174. The runoff from each slope will be conducted by its terrace to each drop box in the concrete culvert. The 36" concrete culvert will deliver the runoff to the Railcut Pond ditch at the bottom of the refuse pile.

3.5.4 Backfilling and Grading Plans

3.5.4.1 Recontouring

Recontouring and regrading will be done with bulldozers, scrapers, maintainers, backhoes or front-end loaders. The work will be done prior to replacement of any soil material and after removal of any facilities.

Each site to be disturbed will be contoured to blend with adjacent undisturbed areas. They may not be returned to original contours, as those are unknown in several instances.

Small area cuts and fills will be restored using a front-end loader, bulldozer, or backhoe. Road bases, such as Fan Canyon, will be regraded to blend with rugged topography. Berms will be removed and the road bed ripped to blend with rugged topography.

The post-mine contours will remain approximately the same as the current contours. Final leveling and regrading changes will typically be so small, they will no appear on the map. The final contours will approximate those shown on Plate III-1.

The coarse refuse pile is contoured throughout is construction according to UMC 817.81-93 and the plan submitted in Section III. Any coal seam exposed because of a portal opening will be covered with four feet of non-toxic material.

Specific postmining drainage designs and measures that will be used during the final reclamation phase is contained in Appendix III-12, Post Mining Hydrologic Design.

3.5.4.2 Removal or Reduction of Highwalls

Small highwalls have been created at several portal and shaft locations. Most of these highwalls will be regraded to blend with adjacent surroundings. If highwall reduction decreases the stability of adjacent slopes to a point that is potentially dangerous, the highwall will be left intact.

Coal seams naturally outcrop throughout the permit area. Coal seams that are uncovered during mining operations, i.e. at portals or along highwalls, will be backfilled and graded with 4 feet of non-toxic cover so that the coal material is no longer exposed. These seams will be stabilized so that contamination of ground or surface waters by coal or acid/toxic forming materials will not occur and then revegetated according to the procedures outlined in Section 3.5.5.

3.5.4.3 Terracing and Erosion Control

Regrading by terracing will be done on the contour when possible for erosion control purposes. The large acreages of pre-law revegetation also aid in erosion control. A diversion ditch (Plate III-12) has been installed to surround part of the surface facilities to minimize erosion across the disturbed area.

To aid in the control of runoff and erosion, drainages will be constructed during the regrading process to compliment the natural existing drainages and riprapped if necessary. Any rills or gullies greater than nine (9) inches which form on the regraded or topsoiled areas will be filled, stabilized and reseeded.

3.5.4.4 Soil Distribution and Stabilization

There is very little topsoil to redistribute and will be used where it will be needed the most. Pre-law revegetation has generally been successful without topsoil and it is assumed that reclamation can be accomplished without topsoil.

The common depth of topsoil for the mapping units described from the disturbed sites is three inches. Most soil mapping units have only a thin A horizon situated directly over the C horizon. The HBC mapping unit has a 6-inch A horizon, 30-inch B horizon, and 24-inch C horizon. All of this mapping unit located within the permit area has been previously disturbed.

Any borrow material to be used will remain in place (Plate III-1) until the material is needed. For placement on large areas the material will be loaded, moved, and spread to an even depth determined by revegetation studies.

On all areas that are regraded without topsoil or covered with topsoil, material will be tested for fertility and potential toxicities at an average sampling rate of three samples per acre. Soil samples will be taken from each site after the soil has been spread and prepared for seeding. Samples will be taken both from the surface (0-3" depth), and at a depth greater than six inches. Samples will be analyzed for fertility, texture, pH, conductivity, lime, organic matter, nitrogen, phosphorous, potassium, zinc, iron, manganese, and copper. Analyses for metal toxicities will also be run if the material has not yet been evaluated, or if field conditions warrant.

Native plants are typically adapted to soils of low fertility and certain texture and chemical characteristics. When reclaiming with the use of topsoil, addition of fertilizer is commonly not necessary. However, this may not be the case with soils still in place beneath buildings and other facilities. For instance, zinc, a necessary micronutrient for plant growth, was absent from one source of borrow material.

Any necessary soil nutrients will be spread prior to revegetation according to interpretation of test results and the spe-

cies to be planted. If needed, phosphorous (P_2O_5) will be disked into the soil prior to planting. Nitrogen fertilizer (ammonium nitrate) will also be added if soil testing and interpretations indicate it is necessary.

Soil material will be worked on the contour whenever possible, unless there are steep slope limitations. Soil will be placed as evenly as possible. After facility removal on areas where no soil material will be replaced, the ground will be ripped with a bulldozer to a depth of eighteen to twenty inches to loosen the surface material and increase infiltration. The site will then be graded to its final contour and sampled for chemical analysis prior to planting as described above.

3.5.5 Revegetation Plan

The revegetation plan has been designed to re-establish several plant communities on the disturbed sites that are self-sustaining and capable of controlling erosion. Species have been selected which are important for supporting and complementing the planned post-mine land uses of fish and wildlife habitat, recreation and livestock grazing. Perennial forage species selected will minimize the amount of disclimax species such as Bromus tectorum.

Little variation in revegetation techniques are expected to be necessary at Sunnyside, with the exception of techniques required on the coarse refuse. The revegetation techniques on the coarse refuse are currently under study. The purposes of this study are presented in Appendix III-7. Other supporting information is in Chapter VIII.

The primary differences between sites will be application of seed mixes appropriate to each habitat type. The amount of tackifer is doubled on steep slopes. Soil preparation equipment varies, e.g. bulldozer, tractor, disk, maintainer, front-end loader, etc. depending on site specific conditions and equipment availability. Seeding will be by a drill on level to gently sloping areas and hydroseeding on steeper or less accessible areas. When the hydroseeder is used the seed rate is increased (Tables III-15 through III-18).

3.5.5.1 Soil Preparation

Prior to seeding, soil will be disked or scarified if a crust has developed since final grading or disking of phosphor-

3.5.3.2 Removal of Surface Structures

(a) At the conclusion of mining, all surface structures, with the exception of those permanent structures marked on Plate III-1 and noted on Table III-1, will be dismantled, removed and the land graded to blend with the surrounding areas. The archway over the No. 2 Canyon Drainage is a temporary design and will be removed during final reclamation.

(b) Outlying surface facilities including portals, ventilation shafts, substations, upper bathhouse, equipment and material storage areas, preparation plant, power transmission lines, mine water lines, and unit train loadout, will be dismantled and eliminated.

(c) Most roads will be left to provide access for grazing and recreational activities. Those roads not left for future use will be ripped, contoured and revegetated. The roads which will not be reclaimed are illustrated on Plate III-1.

(d) The area at the mouth of Pasture Canyon, containing the rodeo grounds and stables will be left intact.

(e) The water supply facilities will remain after completion of mining to supply culinary water to residents of the towns. Since new mines are being planned in nearby areas, it is believed the towns will remain occupied beyond the projected life of the existing mines.

(f) The preparation plant reject and industrial waste disposal facilities are in areas approved by MSHA and the Utah State Department of Health (see Plates III-1 and III-5). During the period the disposal sites are active, they will conform to applicable state regulations such as degree of slope, compaction, and coverage with inert material. Upon completion of mining activity, these areas will be scarified, covered with topsoil or material capable of supporting plant life, if necessary, and revegetated. Disposal and regrading are ongoing processes. Plans for final revegetation for the refuse are still being evaluated (Chapter VIII and 3.5), however, a conservative estimate of borrow cover and revegetation are included in the bond calculations.

ous. Otherwise, no special soil preparation will be necessary after final grading and addition of any necessary nutrients.

Special soil preparation, such as the addition of lime, may be necessary prior to revegetation of coarse coal refuse. This factor is currently under study (Chapter VIII).

3.5.5.2 Seeding and Transplanting

The revegetation plan addresses each habitat type or vegetation type and not each disturbed site. As the disturbed areas are relatively small, each facility or area will be reclaimed to the appropriate habitat type in which it occurs. These are illustrated on Plate III-1.

The exception to the revegetation plan is the coarse refuse and slurry ponds. Until research is completed, it is uncertain what habitat type will be created. It is likely, however, that the area will be returned to a shrub/grass type rather than a woodland.

All disturbed areas will be seeded the first planting season after site preparation is complete. The Soil Conservation Service recommends autumn seeding (George Cook, personal communication). Many native shrub seeds have a stratification requirement and autumn planting will allow these seeds to overwinter (Monson and Christensen, 1975). Spring seeding of grasses and forbs can also be done. If any transplanting becomes necessary, it will be in early spring to allow the trees and shrubs to naturally break dormancy.

The seed mixes have been carefully prepared according to the habitat type to be reseeded, the post-mine land uses, erosion control capability and seed availability (Tables III-15 through III-18 and Figure III-8).

Experience has proven the addition of annual and exotic grasses, which have quick establishment rates, is detrimental to the establishment of nature species, both seeded and invaded (Oaks 1981, Wolfe 1982). Therefore these have been omitted. All species combined will provide erosion control. Table IX-39 describes documented forage values of the species to be used for deer and elk. The mixes may vary from year-to-year, depending on seed availability and cost.

Each seed mixture is titled for the habitat to be reclaimed. Locations of the disturbed areas, mapped according to habitat type, are shown on Plate III-1. The revegetation plan is designed to return each site to a community similar to what is

thought to have occurred prior to the mining disturbance. The species and procedures may be changed if data becomes available from the test plots that establishes a clear need for change.

Seeding rates are based upon critical areas (Merkel and Herbel 1973, EPA 1975). The main facility sites and other similar gently sloping areas will be drilled with a native seed drill. Slopes and areas difficult to reach will be seeded with a hydroseeder. The seed will be applied in a water slurry. Mulch will be applied in a separate step.

The current plan will require the establishment of about 1,800 shrubs and trees per acre to equal the densities in the pinyon-juniper/grass reference area. This live stem density, as required in UMC 817.117, can be achieved from the shrub seed currently in the seed mix. Shrub transplants (containerized stock) will be hand planted to achieve required stem density only if it is necessary to supplement the seed mix.

The tree type (pinyon-juniper) is only fifteen acres which consist of small sites or long narrow strips. No trees or shrubs will be transplanted here, as natural invasion should fill in these areas. The shrub seed in the seed mix will provide enough stems per acre to equal the densities (550 stems/acre) in the pinyon-juniper reference area.

The two shrub types (mountain brush and sagebrush/grass) will not require transplanting. The amount of shrub seed mix will provide enough stems/acre to comply with UMC 817.117.

3.5.5.3 Mulching

Seeded areas will typically be mulched with native hay at a rate of two tons/acre. The hay will be installed with a hay blower or by hand on small areas. It will be crimped in place on level areas and/or tacked with an application of about 150 pounds/acre wood fiber and liquid organic tackifer such as J-tac. A rate of forty pounds/acre is used on level to gently sloping areas. On steep slopes, the rate of the liquid tackifer is doubled.

Jute matting or excelsior blankets will be used to aid seed establishment in drainage areas or to control localized gullying. Gullies are a common component of the local and regional topography. Therefore drainages through planned sites will be constructed during regrading to help control erosion.

Within limitation of equipment, much of the rock will be replaced. Rocks help act as a deterrent to erosion, improve water retention, and create micro-environments which enhance seed germination.

The rock is not intended to be used as a mulch, but rather to re-create a particular habitat type. Similar use of rocky soils in New Mexico has proven successful (Wolfe 1981), whereas loamy soils without rocks replaced on slopes undergo accelerated erosion until a "stone pavement" of small included pebbles develop. Meanwhile, soil losses of six inches and more are visible as demonstrated by pedestalled grasses.

3.5.5.4 Management

Grazing Protection

The reseeded areas will be protected from livestock grazing. Protection from wildlife is generally impractical. However, plastic net guards will be used when necessary to prevent browsing of trees and shrub transplants.

Irrigation

Irrigation will not be necessary to establish vegetation. The revegetation at Sunnyside will be mulched to increase germination and improve soil moisture retention. The Bureau of Land Management range improvement seedings, in chained pinyon-juniper north of the town of Sunnyside, have been successful without supplementary water.

Weed Control

All seed purchased will be labeled in accordance with the Federal Seed Act, Section 201. This law limits or restricts the presence of certain noxious plant species.

Native hay will be selected to introduce a minimum of weed seed. Revegetation experience has shown that after a couple of years, most weeds are naturally eliminated from the stands. If weeds should become a problem for some reason, mowing may be used where terrain permits (EPSA 1975), or in extreme cases, herbicides could be applied.

CHAPTER III

Disease and Pest Control

Any necessary insect or rodent control will be guided by the U.S. Fish and Wildlife Services, The Utah State Cooperative Extension Service, and the Animal, Plant, Health Inspection Service.

3.5.5.5 Monitoring

Revegetated areas will be monitored on a schedule recommended by DOGM. Revegetated sites not subject to final reclamation will not be monitored until after final revegetation. (Monitoring is discussed in Section 9.8).

3.5.6 Schedule of Reclamation

3.5.6.1 Detailed Timetable

Contemporaneous reclamation is discussed in Section 3.5.1; these activities will continue until the mine closure. Upon completion of mining, reclamation will be performed as described in Sections 3.5.3, 3.5.4 and 3.5.5. Table III-10 presents the proposed reclamation and revegetation time schedule.

3.5.6.2 Reclamation Monitoring

Reclamation success of post 1977 disturbed areas will be determined by comparing data from DOGM approved reference areas with the corresponding reclaimed sites, in accordance with UMC 817.116 and 817.117. The parameters to be compared include vegetation cover and stem density.

Reclamation and revegetation are generally inspected and monitored by OSM and DOGM. Revegetation monitoring is discussed in Section 9.8. On federal lands, disturbed acreage and reclaimed areas will be surveyed regularly and reports submitted according to CFR 211.62.

Qualitative inspections and monitoring of the final reclamation will be done on an annual basis throughout the bonding period. All sites will be inspected at least once a year for seeding or soil stability failure or problem areas (actual or potential). Any damaged areas will be repaired.

The monitoring begins following the final seeding and mulching of the reclaimed areas. According to UMC 817.116(b)(1), the 10-year responsibility period cannot begin until ground cover in the reclaimed site equals (within 70%) that in the reference area.

Vegetation sampling will commence on the reclaimed sites and the reference areas the second year after reseeding. This sampling will continue on a biennial basis until ground cover and stem density reaches the approved standards needed for the ten year responsibility period to begin.

3.5.6.3 Responsibility Period Monitoring

Once the approved densities [UMC 817.111(c)(2)] and ground cover [UMC 817.116(b)(1)] have been achieved, the 10-year responsibility period can begin. Statistically adequate samples and statistical comparisons between the reclaimed sites and the reference areas will be conducted at least four (4) years during the 10-year period. The first two sampling periods will be in the third and sixth years to assure the revegetated areas are progressing and maintaining sufficient cover and density. During the last two years, the areas will be adequately sampled and statistically compared (one tailed t-test) for ground cover and stem density to prove reclamation success and allow for bond release.

Water monitoring during the period between final reseeding and bond release will consist of sampling eight sediment ponds. These ponds being left are limited discharge ponds and only need to be sampled when discharge occurs. The ponds are designed to discharge only after a ten year, twenty-four hour storm event.

Subsidence monitoring will be done annually for three years to make sure that all subsidence has stabilized.

3.5.6.4 Statistical Methodology

Any sampling on reclaimed areas or reference areas will be done at statistically adequate levels. To determine adequate samples a two-tailed t-test (Snedecor and Cochran, 1976) $(t^2s^2)/(dx)^2$ will be used at the 80% confidence level with a 10% (d=10%) change in the mean. The 80% confidence level is because all vegetation types at Sunnyside are either shrublands or woodlands (shrub cover greater than 20% of total cover).

Once adequate samples are obtained for cover and stem density, these parameters will be compared between reference areas and the corresponding reclaimed sites. These parameters will be compared using a one tailed t-test (Larsen, 1980). Since the primary land use is wildlife, under Section UMC 817.116, the revegetation will be considered successful when ground cover of a reclaimed site is 70% of the ground cover in the reference area with 90% statistical confidence. The stem densities on the reclaimed areas must be within 90% of densities on the reference areas with 80% statistical confidence.

3.5.6.5 Sampling Methodology

Ground cover will be estimated using the point line method, where a pin is dropped through a frame every 1/2 meter on a 25 meter transect. The first object encountered by the pin will be recorded as cover for that point. However, only understory cover will be estimated and this will not include canopy cover provided by trees or tall shrubs (shrubs over five feet tall). It would not be reasonable to expect trees or shrubs after only ten years' growth in the reclaimed sites to achieve the canopy cover found in the reference area.

The success of tree and shrub establishment will be determined by comparing stem densities of the reclaimed sites with the reference areas. In accordance with UMC 817.117, only shrubs or trees over one foot in height, over two years old, and with at least one-third of its length in the live crown will be counted. Densities will be estimated by counting the number of stems in a known unit area. In the pinyon-juniper types an elbow shaped plot illustrated in Plate IX-5 of the MRP will be used to estimate densities. This plot is two rectangular shaped plots each, 6 x 30 meters, with one parallel to the slope and the other perpendicular. In the mountain brush and sagebrush vegetation types, a plot 13.2 ft x 33 ft (0.01 acre) will be used to estimate shrub density. This size plot was developed because of the size and density of shrubs in this type.

3.5.7 Cost Estimate for Reclamation

3.5.7.1 Forecast of Performance Bond Liability During Permit Term and Forecast of Liability for the Life of the Mine

There is no difference between bond for the permit term and a bond for the life of the mine. There are no additional disturbances planned for the Sunnyside Mine during the 5-year permit term.

Table III-29 gives the estimated bond cost for facility removal, entry sealing and reclamation costs for the reclaimed areas delineated and identified in Table III-25. In addition to the total contract and reclamation costs, there are a number of add-on costs including supervision, overhead and monitoring costs. Equipment mobilization and demobilization cost includes the cost of transporting necessary reclamation equipment.

The reclamation bond has been computed for post-law disturbances and pre-law disturbed areas which have been used since 1977.

No bond is calculated for areas disturbed and revegetated prior to 1977 and illustrated on Plates III-20-23.

There will be additional revegetation of unbonded pre-law areas in the future. These areas have been mapped (Plates III-20 through III-23) illustrating the current condition of the pre-law disturbances. In Appendix III-10 these areas are described and the acreages are listed in Table 2. About 50% of these pre-law disturbances were revegetated in the 1960's and about 33% remains in a completely disturbed condition.

The costs for equipment use and ownership have been taken at current (1988) Blue Book values (Table III-31). For those pieces of equipment not in the Blue Book costs, depreciation, repair frequency and cost of operating similar size pieces of equipment were used to estimate ownership and operating costs. The hours used for estimating equipment usage are based on the Caterpillar Handbook and field or supervisory experience in reclamation and revegetation or as cited.

3.5.7.2 Bond Estimate

Mine Portal Sealing

There are 33 portals (Table III-5) and 8 shafts (Table III-5) within the Sunnyside permit area that have not been reclaimed. Nine portals have been sealed but not covered and reclaimed. The portals and shafts are located on Plate III-1. The descriptive parameters are described in Plate III-18 (1 of 2) and Plate III-18 (2 of 2). Tables III-6 and III-8 give a summary and details of shaft sealing costs. Table III-5 gives detail and summary costs for portal sealing.

CHAPTER III

Portal Closure and Fill

Portal closure and fill costs (Table III-9) include the transport of enough fill material to cover portals to blend with topography where no highwall regrading was calculated. Costs are also included to blast shut portals on top of cliffs that cannot be accessed by equipment. There would be major surface disturbance to construct access roads to close the portals that the operator is proposing to blast shut.

Dismantling and Removing Facilities

A complete list of facilities is included in Table III-1 and shown on Plate III-1. Several of the facilities are to remain after closure for use by the towns of Sunnyside and East Carbon. The cost of facilities removal was derived from the Means Construction Handbook (1986). These costs include facility dismantling and removal from the site. Foundation breakage and burial sufficient for regrading and reclamation is included. Table III-1 gives the breakdown and cost estimate for facility removal. Unit costs for floor slab removal were converted from costs per square foot to costs per cubic foot for slabs and foundations to allow for ease of calculations when slab thickness varied. Footing removal unit costs were also converted from cost per linear foot to cubic foot. Some of the foundations are covered when the area is regraded and will not be removed.

Power line removal costs were an average of previous removal cost estimates and bids.

Culvert Removal

A total of 26 culverts (Table III-22) are to be removed inside the permit boundary during reclamation. Cost and source of information are shown on the table.

Drill Hole Plugging

Two drill holes are known to be open, based on presently available records. Cementing costs are shown in Table III-10.

Highwall Regrading

Highwall regrading will be done at portal and shaft locations where cut/fill excavations were done on side hills to place facilities. Regrading involves pulling previous cut material back into the cut with a backhoe and dozing the material into approximate original contours using a dozer. Volumes for areas 2 through 9 were based on cross-sections on Plate III-32. Volumes

for the unit train loadout and preparation plant highwalls were based on regrade contour volumes shown on Plate III-42. Cost calculations are shown on Table III-20.

Regrade Outside Highwall

General area regrading involves scarifying and recontouring general areas to achieve positive drainage and break up the ground surface for seeding. The Water Canyon refuse will require the placement of 6,018 cu. yds. (1' depth) of borrow material for suitable cover prior to revegetation. There are 47.04 acres of refuse (4-ft. of cover) and 71.49 acres of slurry (1-ft. of cover) that will require scarifying. All unit costs are developed in backup cost calculations on Tables III-32 through III-36.

Pond Reclamation Costs

There are eleven sediment ponds and two mine water discharge ponds (Table III-21) on the Sunnyside permit that will require filling and leveling during abandonment. Yardage developed to fill and blend the pond with surrounding topography was assumed to be equal to the pond capacity to the top of the embankment. Material movement costs were from Table III-36 based on average push distances shown in Table III-21 with no ripping required.

For bonding purposes, it was assumed eight sediment ponds would have to be sampled only once each over the ten year period. Labor and lab costs are shown on Table III-30.

The monitoring costs are calculated and listed on Table III-35.

Soil Testing, Preparation, and Fertilizing

The soil testing will be done following the removal of facilities and after ripping and regrading. For bond purposes it was assumed that soil tests would be needed on all disturbed acreage. It was estimated that an average of three samples per acre would be needed to determine soil quality and fertility. Sample costs are from Bookcliffs/ACZ Laboratory.

Nitrogen (ammonium nitrate) and Phosphorus (P_{205}) will be applied at the locations and rate that soil tests indicate. Assuming worst case, the soil tests indicate some soils could use 40 lb/acre of nitrogen and 30 lb/acre of phosphorus (recommendation - Colorado State University Soils Laboratory). Fertilizer would be applied with a tractor and spreader and ground will be

disked to break surface crusting. Table III-12 details unit cost and Table III-25 summarizes cost by area.

Revegetation

Revegetation costs were calculated for drilled (Table III-14) and hydroseeded (Table III-13) areas using four different vegetation seed mixtures. All areas will have hay mulch and/or tackifier applied. The cost of the seed mix for each vegetation type is presented in Tables III-15 through 18. The weighted average cost of revegetation at Sunnyside is found in Table III-11.

Responsibility Period Monitoring

Costs for responsibility period monitoring, described in Section 3.5.6.1, are shown on Table III-30.

Contractor Mobilization & Demobilization

A fixed cost of $10,000 was included for costs of moving equipment and necessary portable facilities in and out of the job site for one or more contractors during the job period.

Revegetation Failure

Revegetation failure is high in the high desert environment of Utah where the rainfall is light and erratic during the summer months. A 40 percent failure rate was assumed for all disturbed acreage. Additional cost would include unit costs covered in soil testing, preparation, and fertilizing and revegetation costs described above.

Reclamation Management

A full time on-site manager during the reclamation phase of the project has been added for eight months at $4,000 per month.

Contingency

A contingency of 10 percent for the reclamation has been added to cover unforseen costs.

CHAPTER III

3.6 Bibliography

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United States Environmental Protection Agency. Methods of Quickly Revegetation Soils of Low Productivity and Construction Activities. Office of Water Planning and Standards. Washington, D.C. EPA-440/9-75-006. 1975.

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CHAPTER III

Portal Closure and Fill

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A complete list of facilities is included in Table III-1 and shown on Plate III-1. Several of the facilities are to remain after closure for use by the towns of Sunnyside and East Carbon. The cost of facilities removal was derived from the Means Construction Handbook (1986). These costs include facility dismantling and removal from the site. Foundation breakage and burial sufficient for regrading and reclamation is included. Table III-1 gives the breakdown and cost estimate for facility removal. Unit costs for floor slab removal were converted from costs per square foot to costs per cubic foot for slabs and foundations to allow for ease of calculations when slab thickness varied. Footing removal unit costs were also converted from cost per linear foot to cubic foot. Some of the foundations are covered when the area is regraded and will not be removed.

Tables III-1A and III-1A(i) give calculations and costs associated with the removal of the mine water pipelines.

Power line removal costs were an average of previous removal cost estimates and bids.

Culvert Removal

A total of 26 culverts (Table III-22) are to be removed inside the permit boundary during reclamation. Cost and source of information are shown on the table.

Drill Hole Plugging

Two drill holes are known to be open, based on presently available records. Cementing costs are shown in Table III-10.

CHAPTER III

Highwall Regrading

Highwall regrading will be done at portal and shaft locations where cut/fill excavations were done on side hills to place facilities. Regrading involves pulling previous cut material back into the cut with a backhoe and dozing the material into approximate original contours using a dozer. Volumes for areas 2

The remainder of this page intentionally left blank.

SUNNYSIDE COAL COMPANY
Debtor in Possession
1113 Spruce Street
Boulder, Colorado 80302
(303) 938-1506
Facsimile: (303) 938-5005

July 21, 1994

Mr. James C. Carter
Director
Utah Division of Oil, Gas and Minerals
State of Utah Natural Resources
355 W. North Temple, Suite 350
Salt Lake City, UT 84180-1203

Fax: (801) 359-3940

Re: D.O. #94B, Sunnyside Coal Company, Sunnyside Mine, ACT/007/007, Folder #3, Carbon County, Utah

Dear Jim:

Thank you for the meeting with us on July 14, 1994 to discuss the subject Division Order ("D.O."). While I believe that the issuance of a D.O. was an over reaction, I recognize and share your objective of assuring the reclamation of the Sunnyside mine. I am also glad to know that you share our desire that funds spent at the Sunnyside mine go to actual reclamation instead of legal and administrative costs.

I want to confirm that an acceptable response to the D.O. is our submission of a schedule for meetings to resolve the issues addressed. I understand that the issues will be resolved based on the Division's review of available data and on-site inspection of the related areas. I further understand that reclamation will proceed a "design/build" basis. Work will be performed based on site inspections to minimize the need for costly and time consuming engineering studies. I agree with this approach and believe it will maximize the results of our efforts.

If this does not agree with your understanding of or discussions please advise me as soon as possible. If we are in agreement on this, I will begin preparing a proposed schedule and collecting the necessary maps and other data.

As I stated at our meeting, we request that these meetings be held at the Sunnyside mine where most of the data is located. In addition site inspections of the mine may be included in the process.

If you have any questions please feel free to call me.

Sincerely,

Bob

Robert M. Burnham
President

cc: J. Semborski
Mike Elder
D. Drago

File: 40721jwc.wp

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

State of Utah
DEPARTMENT OF NATURAL RESOURCES
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COPY

August 17, 1994

Robert M. Burnham, President
Sunnyside Coal Company
1113 Spruce Street
Boulder, Colorado 80302

Re: Division Order 94B, Sunnyside Coal Company, Sunnyside Mine, ACT/007/007, Folder #5, Carbon County, Utah

Dear Bob:

I am writing to follow-up on our on-site mine visit last Thursday, August 11, 1994. I appreciate the time you and Jim Camberaki took to go through the Division Order issues with me and to tour the mine site.

To recap, I understand that the activities at the Sunnyside Mine include ongoing environmental compliance with permit conditions, which has included the maintenance of sediment control structures, performance of required water sampling, and the recent enlargement of several sediment ponds. With regard to reclamation and site clean-up, I understand that three of seven shafts have been sealed, that most of 100 drums of used oil and related materials have been removed from the site for disposal, and that the balance will be removed sometime this week. In addition, I observed employees of Mountain States Machinery on-site dismantling track and power poles and salvaging other scrap metal items.

You provided me with a pre-demolition clean-up plan prepared by J.B.R. Environmental Consultants dated July 1, 1994, which proposes to perform sampling and testing of oil field electrical equipment, the removal of two five thousand gallon underground storage tanks, and the performance of an asbestos survey for a bid price of $25,310. You indicated during our conversations that Sunnyside plans to fund that work with proceeds of the sale of scrap metal.

You also provided me with a copy of a salvage bid from Mountain States Machinery dated April 7, 1994, proposing to pay Sunnyside $55 per ton for scrap iron removed from the property. That bid estimates the value of the scrap iron contained in structures on the property to be $421,250. You also provided me with a July 29, 1994, letter from Mountain States setting forth other terms of the scrap bid. I understand that Sunnyside plans to seek bankruptcy court approval before directing Mountain States to begin dismantling and salvaging of the prep

plant, the first of the structures on the site to be demolished. I encourage you to file the necessary pleadings to obtain court approval as soon as possible.

During my visit, we also discussed the disturbed area boundary issue. We agreed to schedule an on-site meeting between representatives of Sunnyside and the Division to reach agreement as to the appropriate location of disturbed area boundaries within the permit area. I propose that meeting take place within the next two weeks, and solicit your suggestion as to the best date.

As we also discussed, Sunnyside is in the process of preparing a revised reorganized plan for submittal to the bankruptcy court on August 26, 1994. I would request that Sunnyside also submit a request for court approval of the demolition of the prep plant on or before that date as well.

Given the reclamation efforts made to date and the commitments made during the course of the site visit, this letter will operate to extend the time for performance under Division Order 94B through the close of business on Friday, September 2, 1994. Between now and that date, the Division and Sunnyside must reach a firm commitment to a schedule for performance of the requirements of the Division Order or enforcement action will be required. I would suggest that commitment take the form of a stipulation to the Division Order, and that the stipulation serve as the basis for revising the Division Order's time frames. I am in the process of having such a stipulation prepared and will forward it to you for your review as soon as it is available.

Again, thank you for meeting with me at the mine site for what I believed was a productive meeting.

Very truly yours,

James W. Carter
Director

jbe
cc: L. Braxton
P. Grubaugh-Littig
J. Helfrich
H:SUNDO94B.LTR

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt, Governor
Ted Stewart, Executive Director
James W. Carter, Division Director

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September 2, 1994

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To Bob Burnham | From Jim Carter
Co. Sunnyside | Co. DOGM
Dept. | Phone # 538-5340
Fax # (303) 938-9005 | Fax # 359-3940

Robert M. Burnham, President
Sunnyside Coal Company
1113 Spruce Street
Boulder, Colorado 80302

Re: Division Order 94B, Sunnyside Coal Company, Sunnyside Mine, ACT/007/007, Folder #5, Carbon County, Utah

Dear Bob:

I am writing to follow up on my letter to you of August 17 and our conversations since then. My letter of the 17th suggests that Sunnyside's required commitment to performance of the requirements of the Division Order take the form of a stipulation signed by the Division and Sunnyside. We most recently discussed a mutually acknowledged letter as an alternative to a formal stipulation. This letter will constitute that stipulation and Sunnyside's commitment to compliance with the requirements of the Division Order when countersigned by you and returned for inclusion in the Division's files.

During my visit to the minesite on August 11, you acknowledged that the current reclamation plan does not depict all disturbed areas at the mine. We agreed that designation as disturbed does not dictate a particular reclamation treatment, but that all features and structures utilized after passage of SMCRA in connection with mining operations must be identified as disturbed areas in the reclamation plan.

We also agreed that, for all roads, railroads, and structures planned to be retained for post-mining uses, a demonstration must be made that the proposed retention and use will meet regulatory requirements. Structures for which such a showing cannot be made must be removed, and the plan modified to reflect their removal. Demonstrations for the County road and railroad spur will likely be relatively straightforward, but all structures and roads to be retained must be shown to be necessary to the post-mining use and approvable under the regulatory program.

We agree that the current plan contains inadequate backfilling and grading information to assure compliance with standards for reclamation and bond release. For example, there is no identification or quantification of reasonably available spoil

for backfilling of highwalls. There is inadequate information to determine if the final configuration of the site will comply with approximate original contour requirements.

We agree that the plan contains insufficient information to determine that the post-mining hydrologic configuration of the site will meet program requirements.

As we have discussed, Sunnyside currently lacks the financial resource to fully respond to the requirements of the Division Order. We have also discussed that court approval of the Kilter agreement or some other funding arrangement will be necessary for Sunnyside to fully comply with the Division Order and perform the necessary site reclamation. The Division is willing to allow Sunnyside a reasonable period of time to obtain the necessary approvals to comply with the Division Order and perform reclamation at the Sunnyside Mine, if Sunnyside Coal Company will acknowledge the deficiencies of its reclamation plan by countersigning this letter and returning it to the Division.

Due to my tardiness in getting this letter to you for consideration, I am extending the date for performance under Division Order 94B through the close of business Friday, September 9, 1994. If the Division has not received a countersigned copy of this letter by that time, further enforcement action will be required.

Very truly yours,

James W. Carter
Director

Acknowledged and agreed to:

Sunnyside Coal Company

jbe
cc: L. Braxton
H:BOBLETTE.LTR

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To D DRAGOO	From R. BURNHAM
Co.	Co. SCC
Dept.	Phone # 303-938-150
Fax # 801-596-2814	Fax #

SUNNYSIDE COA

CORPORATE (

1113 SPRUCE STREET
BOULDER, COLORADO
U.S.A.

PHONE: (303) 938-1506
FAX: (303)938-5005

DATE: September 7, 1994 FROM: RM Burnham
NAME: **Mr. James Carter**
COMPANY: Utah Dept. of Oil, Gas and Mining
FAX: 801-359-3940
PHONE: 801-538-5340

NUMBER OF PAGES: 1

Jim,

In reference to your letters of August 17 and September 2, 1994 and believe that there a number of additional points which should be included in the proposed letter agreement relating to Division Order 94B.

1. Sunnyside Coal Company currently holds an approved mine permit, ACT/007/007 with an approved reclamation bond amount of $1,850,184.

2. We have agreed that Sunnyside Coal Company is better able to reclaim the Sunnyside mine in a cost effective manner than the Division.

3. We have agreed that available funds are best spent on actual reclamation instead of administrative, legal and engineering costs.

4. Based on these points of agreement, plus those points already in your letter, the Division and Sunnyside Coal Company agree that reclamation will be done on a "design/build" basis. The "design/build" approach will allow work to proceed based on on-site inspections by Division personnel authorized to approve work plans. This approach will allow work to proceed in a timely manner and minimize the cost and time delays which will result from lengthy engineering studies.

As an administrative matter, I will have to look into the need for Court approval to enter into this agreement.

cc: Denise Dragoo, Fabian & Clendenin, (801) 596-2814

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

State of Utah
DEPARTMENT OF NATURAL RESOURCES
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September 19, 1994

Mr. Robert Burnham
Sunnyside Coal Company
1113 Spruce Street
Boulder, Colorado 80302

Re: Division Order 94A.

Dear Mr. Burnham:

The above referenced Division Order required the operator to provide certain information concerning inadequacies found in its reclamation plan as outlined in the Findings of the Division Order. Performance under the Division Order provided for several alternatives, including setting a schedule for supplying that information. After numerous discussions, letters, and attempts at setting a schedule based upon the agreement of the parties concerning the deficiencies outlined in the Division Order, it has become apparent that the debtor cannot comply with this Order. Therefore, the time set for responses to the Division Order and any extensions for that response are hereby terminated. The Division will take all actions available to it, both in Bankruptcy Court, and under the Coal Regulatory Program, to protect the state and federal regulatory's interest in assuring complete and adequate reclamation of the mine.

Very truly yours,

James W. Carter
Director

lsj
BURNHAM LTR

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF COLORADO

In re:	:	
SUNNYSIDE COAL COMPANY,	:	Case No. 94 12794 CEM
Debtor.	:	Chapter 11

OBJECTION OF THE FEDERAL OFFICE OF SURFACE MINING AND THE STATE OF UTAH DIVISION OF OIL, GAS AND MINING TO DEBTOR'S AMENDED DISCLOSURE STATEMENT

Pursuant to Rule 3017, *Federal Rules of Bankruptcy Procedure*, the United States Office of Surface Mining Reclamation and Enforcement ("OSM") and the State of Utah, Division of Oil, Gas and Mining ("Division"), (collectively hereinafter "Claimants") file this objection to the debtor's *Amended Disclosure Statement*, dated August 26, 1994.

POINTS AND AUTHORITIES

PROCEDURE

The acceptance or rejection of a plan may not be solicited after the commencement of a case until there has been a disclosure statement, approved by the court, containing and disclosing "adequate information." 11 U.S.C. 1125(b). "Adequate information" is defined under the Bankruptcy Code as follows:

> (1) "adequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests of the relevant class to make an informed judgment about the plan; . . . . 11 U.S.C. §1125(a)(1).

DISCLOSURE STANDARD

The standard for determining adequate information in a disclosure statement was summarized by Judge Moore in *In re Stanley Hotel, Inc.*, 13 B.R. 926 at 929 (Bankr. D.Colo. 1981), as follows:

> In short, then, the purpose of a disclosure statement is to inform equity holders and claimants, as fully as possible, about the probable financial results of acceptance or rejection of a particular plan . . . . the information to be provided should be comprised of all those factors presently known to the plan proponent that bear upon the success or failure of the proposals contained in the plan.

Accord, *In re Werth*, 29 B.R. 220, 223 (Bankr. D. Colo., 1983); *In re Metrocraft Publishing Services, Inc.*, 39 B.R. 567, 568 (Bankr. N.D. Ga. 1984); *In re Jeppson*, 66 B.R. 269 (Bankr. D.Utah 1986).[1]

OBJECTIONS AND INADEQUACIES

The debtor's *Amended Disclosure Statement* fails to provide "adequate information" in compliance with the foregoing legal standards. It fails to disclose the

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1. *See also In re Adana Mortgage Bankers, Inc.*, 14 B.R. 20 (Bankr. N.D.Ga. 1981); *In re Civitella*, 15 B.R. 206 (Bankr. E.D.Pa. 1981); *In re East Redley Corporation*, 16 B.R. 429 (Bankr. E.D.Pa. 1982); *In re The A. C. Williams Company*, 25 B.R. 173 (Bankr. N.D.Ohio 1982); and *In re Genesee Cement*, 31 B.R. 442 (Bankr. E.D.Mich. 1983).

magnitude of the debtor's reclamation liability at the Sunnyside Mine, the Debtor's inability to perform reclamation in accordance with applicable law, and its incapacity to meet its ongoing regulatory obligations.

POINT I

THE AMENDED DISCLOSURE STATEMENT DOES NOT DISCLOSE ADEQUATE INFORMATION ABOUT THE DEBTOR'S RECLAMATION LIABILITY

Section G of Part V of the *Amended Disclosure Statement* purports to disclose the contingent reclamation liability owing by the debtor and the provisions made for responding to its statutory obligation. However, the disclosures made in the *Amended Disclosure Statement* concerning the reclamation of the Sunnyside Mine are inadequate for the following reasons:

A. THE DEBTOR'S RECLAMATION PLAN HAS BEEN REJECTED.

The debtor inaccurately states that its Reclamation Plan for reclaiming the surface disturbance at the Sunnyside Mine is approved by the Division[2]. Debtor's Amended Disclosure Statement fails to disclose that the proposed Reclamation Plan submitted by the debtor has been disapproved by the Division, and that on July 7, 1994, the Division issued its *Findings of Permit Deficiency and Order* which specifically determined that the Reclamation Plan failed to comply with the statutory requirements of federal and state

2. The Division has been granted primacy as the regulatory authority for surface coal mining and reclamation pursuant to 30 U.S. C. § 1253. OSM retains oversight jurisdiction pursuant to 30 U.S.C. §§ 1253, 1254, and 1257.

law. A copy of the *Findings of Permit Deficiency and Order* is attached as Exhibit "A".

The *Amended Disclosure Statement* fails to disclose the that the debtor has not complied with the requirements of the *Findings of Permit Deficiency and Order* within the time limitations ordered therein. The Amended Disclosure Statement also fails to disclose that the debtor did not object to, or appeal, the *Findings of Permit Deficiency and Order*, which has now become final and non-appealable.

B. THE DEBTOR'S RECLAMATION LIABILITY IS FAR GREATER THAN THE DISCLOSED COST OF $2,040,000.

The *Amended Disclosure Statement* states that the Sunnyside Mine can be reclaimed for less than $2,040,000. However, Claimants have determined that the actual cost of reclamation will be $8,600,000. *See Findings of Permit Deficiency and Order* attached as Exhibit "B" and Claimants' *Amended Proof of Claim* attached as Exhibit "C". By reason of these projected reclamation costs, the funding provisions of the proposed plan are completely inadequate as is the present performance bond of $1,850,184. The feasibility of the plan is dependent upon the cost to reclaim the mine. Accordingly, the projected cost of reclamation of $8,600,000 as determined by Claimants is a material fact which must be disclosed to creditors pursuant to 11 U.S.C. § 1125(a)(1).

POINT II

THE AMENDED DISCLOSURE STATEMENT DOES NOT DISCLOSE THE INADEQUACIES OF THE KILTER TRANSACTION

A. CURRENT RECLAMATION COSTS MAKE THE KILTER TRANSACTION UNFEASIBLE.

The debtor's ability to reclaim the Sunnyside Mine is dependent upon funds to be received exclusively from the Kilter transaction (page 44 Amended Disclosure Statement). The Kilter transaction is premised on the debtor's ability to complete the reclamation of the Mine for less than $2,000,000. However actual reclamation costs are projected to be at least $8,600,000.00, thereby making the funding from the Kilter transaction grossly inadequate. The *Amended Disclosure Statement* fails to disclose how the projected $8,600,000 in reclamation costs can be funded under the Kilter transaction.

B. THE KILTER TRANSACTION AS PRESENTLY STRUCTURED CANNOT BE COMPLETED BECAUSE OF THE SECURITY INTEREST HELD BY CLAIMANTS.

Kilter's promise to fund the reclamation of the Sunnyside Mine is conditioned upon Kilter receiving the following assets: (a) real property estimated by the debtor to be worth $1,350,000 (Land Sale Agreement); (b) proceeds from sale of mine water estimated by the debtor to be worth $600,000 (Assignment of Proceeds); and (c) the Grassy Trail Creek water right estimated by the debtor to be worth $1,350,000 (Water Sale Agreement). The *Amended Disclosure Statement* fails to disclose that these assets

are encumbered with a deed of trust (the Security) in favor of Claimants, and that the deed of trust will not be released until an acceptable letter of credit in the amount of $2,040,000 has been issued for the benefit of Claimants. The *Amended Disclosure Statement* also fails to disclose how the debtor will fund and obtain such a letter of credit.

C. THE KILTER AGREEMENT DOES NOT REGULATE OR DETERMINE THE RECLAMATION REQUIREMENTS

Section E of Part V of the *Amended Disclosure Statement* states that the debtor will perform the reclamation of the Sunnyside Mine under the terms of the "Kilter Agreements" in accordance with annual budgets submitted to and approved by Kilter. However, the debtor fails to disclose that the Division, not Kilter, is the regulatory body empowered to determine when and how the reclamation process will occur, and when the debtor's legal statutory obligations have been satisfied.

D. ADVERSE CLAIMS TO GRASSY TRAIL CREEK WATER RIGHTS.

In Point IV, A at page 8 of this Objection, Claimants refer in detail to the claims of the cities of Sunnyside and East Carbon, Utah that they, not the debtor, own the Grassy Trail Creek Water Rights and that accordingly, these water rights are not transferable under the Kilter Transaction.

POINT III

THE DISCLOSURE STATEMENT FAILS TO CORRECTLY IDENTIFY AND CLASSIFY CLAIMANTS

A. UNDISCLOSED ADMINISTRATIVE CLAIM

In order to protect the health and safety of the public, Claimants assert that the final shaft and portal closure must be accomplished at the earliest possible time. Estimated cost for the closure is $103,250.00. See Exhibit "B" at pages 4 and 5. The *Amended Disclosure Statement* does not disclose Claimants' administrative priority claim in the amount of $103,250.00 to be incurred for the shaft and portal closure.

B. ADMINISTRATIVE CLAIM FOR 1994-95 PROPERTY TAXES

While the *Amended Disclosure Statement*, Part V., section B, 37, acknowledges the $130,000.00 administrative claim owing to Carbon County, Utah for 1994 property taxes, it fails to disclose how the administrative claim will be paid upon the effective date of the plan. The debtor also fails to disclose or explain how the debtor will pay the administrative claim to Carbon County for property taxes accruing for the 1995 calendar year. The *Amended Disclosure Statement* also fails to disclose how the debtor will pay property taxes for lands owned by the debtor that are not transferred to Kilter. Thus the *Amended Disclosure Statement* fails to disclose that the security for the Claimant's claim is subject to ongoing diminution by virtue of the accrual of taxes by Carbon County.

C. UNDISCLOSED SECURED CLAIM

In section G of Part III of the *Amended Disclosure Statement*, the debtor states that it has two principal secured debts, namely, a tax lien in favor of Carbon County, and a security interest granted in favor of BXG, Inc. However, the statement is inaccurate because it fails to disclose that Claimant's have a secured claim for reclamation costs which is the largest secured claim in this case, being far greater in amount than the secured claim of either Carbon County or BXG, Inc.

D. UNDISCLOSED IMPAIRMENT OF CLASS 2

The *Amended Disclosure Statement* fails to disclose that the Claimants' Class 2 claim is impaired. The value of Claimant's collateral securing the reclamation obligation for the Sunnyside Mine is approximately $2,040,000 not taking into account the priority of Carbon County's tax lien or the potential impact of the city's adverse water claim. The projected reclamation costs for the Sunnyside Mine alone cause the Claimants to be under-secured by more than $6,000,000 Therefore, Claimant's Class 2 claim is impaired. As a result, over and above their administrative claim, Claimants hold the largest unsecured claim against the debtor, representing approximately 2/3 of its general unsecured debt.

POINT IV

THE AMENDED DISCLOSURE STATEMENT FAILS TO PROVIDE ADEQUATE INFORMATION CONCERNING ADVERSE CLAIMS

A. ADVERSE CLAIMS TO WATER RIGHTS

The *Amended Disclosure Statement* fails to disclose the claims of the cities of Sunnyside and East Carbon, Utah, to the Grassy Trail Creek water right. The debtor's *Amended Disclosure Statement* fails to disclose that the City of Sunnyside and the City of East Carbon, Utah, claim that they, not the debtor, are the owners of the Grassy Trial Creek Water Right. See Exhibit "D" attached hereto. If the cities of Sunnyside and East Carbon, Utah, prevail on their claim, the consideration for the Kilter transaction fails, and the equity in the collateral securing Claimants' reclamation claim is further reduced.

CONCLUSION

Based on the foregoing points and authorities, it is respectfully submitted that the debtor has failed to provide adequate information to enable creditors to make an informed judgment about the debtor's proposed plan, and accordingly, approval of the *Amended Disclosure Statement* should be denied

Respectfully submitted this 6 day of October, 1994.

JAN GRAHAM
Utah Attorney General

THOMAS A. MITCHELL
WILLIAM R. RICHARDS
Assistant Attorneys General
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OFFICE OF SURFACE MINING

HENRY S. SOLANO
U.S. Attorney
by Robert D. Clark, #8103
Assistant U.S. Attorney
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(303) 844-3885

CERTIFICATE OF MAILING

I hereby certify that on this 7th day of October, 1994 a true and correct copy of the foregoing **OBJECTION OF THE FEDERAL OFFICE OF SURFACE MINING AND THE STATE OF UTAH DIVISION OF OIL, GAS AND MINING TO DEBTOR'S AMENDED DISCLOSURE STATEMENT** was placed in the U.S. Mail, postage prepaid, to:

Mark L. Fulford, Esq.
Sherman & Howard L.L.C.
First Interstate Tower North
633 - 17th Street, Suite 3000
Denver, CO 80202

Christopher L. Richardson, Esq.
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Denver, CO 80201
(Debtor's Counsel)

United States Trustee
721 - 19th Street, Suite 408
U.S. Custom House
Denver, CO 80202

Laura Stone
U.S. Attorney's Office

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

In re	)	
	)	
SUNNYSIDE COAL COMPANY,	)	Case No. 94 12794 CEM
a Utah corporation,	)	Chapter 11
# 84-1102281,	)	
	)	
Debtor.	)	

CARBON COUNTY'S OBJECTIONS TO DEBTOR'S AMENDED DISCLOSURE STATEMENT

Secured Creditor Carbon County makes the following objections to Debtor's Amended Disclosure Statement (the "Amended Disclosure Statement").

1. In the "Overview of Debts and Assets" on page 16 of the Amended Disclosure Statement, the paragraph at the bottom of the page should read as follows:

> Carbon County, Utah, is owed a total of $341,385.83 as of September 1, 1994 for delinquent taxes (after applying the $92,000 cash collateral payment received in July, 1994, but not any subsequent cash collateral payment). In addition, taxes for 1994 are estimated to be $119,823.05, assuming that an additional assessment by the Utah State Tax Commission in the amount of $26,940.23 for 1994 taxes is deleted. Taxes owed to Carbon County are secured by a tax lien on all of Debtor's real and personal property.

2. In the Plan Description and Implementation section of the Amended Disclosure Statement, the first part of the treatment of Class 1--Real and Personal Property Taxes, should read as follows:

> Class 1 consists of the Allowed Claim of Carbon County, Utah for Pre-Petition real and personal property taxes. This claim is for delinquent taxes in the amount of $341,385.83 as of September 1, 1994 (after applying $92,000 in cash collateral payments received in

July, 1994, but no subsequent payment), and for 1994 taxes estimated to be in the amount of $119,823.05 (assuming that the Utah State Tax Commission deletes a TC-609 assessment in the amount of $26,940.23).

WHEREFORE, Secured Creditor Carbon County, Utah, requests the Court to order that Debtor's Amended Disclosure Statement be amended as set forth above, and enter such other and further relief as may be appropriate.

Respectfully submitted,

SHERMAN & HOWARD L.L.C.

By: Mark L. Fulford

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3000 First Interstate Tower North
633 Seventeenth Street
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(303) 297-2900

Attorneys for Secured Creditor Carbon County, Utah

Date: October 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 5th day of October, 1994, a true and correct copy of the foregoing CARBON COUNTY'S OBJECTION TO DEBTOR'S AMENDED DISCLOSURE STATEMENT was mailed, postage prepaid to:

Risa Lynn Wolf-Smith, Esq.
Holland & Hart
555 Seventeenth Street, Suite 2900
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Denver, CO 80202

U.S. Securities and Exchange Commission
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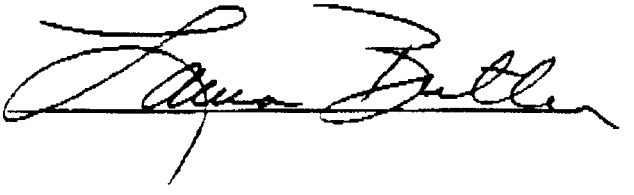
Denver, CO 80202

U.S. Securities & Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549



UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

In re	)	
	)	
SUNNYSIDE COAL COMPANY,	)	Case No. 94 12794 CEM
a Utah corporation,	)	Chapter 11
# 84-1102281,	)	
	)	
Debtor.	)	
	)	

CITIES OF SUNNYSIDE AND EAST CARBON'S OBJECTION TO AMENDED DISCLOSURE STATEMENT

The Cities of East Carbon and Sunnyside, Utah (the "Cities") object to Debtor's Amended Disclosure Statement and request that the Cities be heard in connection with approval of the Amended Disclosure Statement, pursuant to Bankruptcy Rules 3017(a) and 2002 and Local Bankruptcy Rule 317.

1. The Cities believe that disclosure should be made of the rights of the Cities in the water rights to be sold under the Kilter Agreements.

2. The Cities propose that the following reference to the Cities' rights should be inserted, probably on page 16 of the Amended Disclosure Statement.

> A Memorandum Agreement signed September 17, 1951, by Geneva Steel Company and Kaiser Steel Corporation and recorded April 10, 1954 in Book 26, pages 56-81, Entry No. 69805, of the records of the Recorder of Carbon County, Utah, dedicated Grassy Trail Creek surface water owned by the signatories to the Memorandum Agreement to the extent necessary for domestic use of the municipalities of the East Carbon County area, as set forth in the Memorandum Agreement. Any sale of the water rights is subject to the benefits and burdens conferred and imposed by the Memorandum Agreement.

WHEREFORE, the Cities object to the Amended Disclosure Statement and request that the language proposed above be added, and that such other and further relief as may be appropriate be granted.

Respectfully submitted,

PARSONS, DAVIES, KINGHORN & PETERS
By: Rick L. Knuth
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Telephone: (801) 363-4300

SHERMAN & HOWARD L.L.C.

By: _____
Mark L. Fulford, #5781
633 Seventeenth Street, Suite 3000
Denver, Colorado 80202
Telephone: (303) 297-2900

Attorneys for Cities of Sunnyside and East Carbon

Date: September 1, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of September, 1994, a true and correct copy of the foregoing CITIES OF SUNNYSIDE AND EAST CARBON'S OBJECTION TO AMENDED DISCLOSURE STATEMENT was mailed, postage prepaid to:

Risa Lynn Wolf-Smith, Esq.
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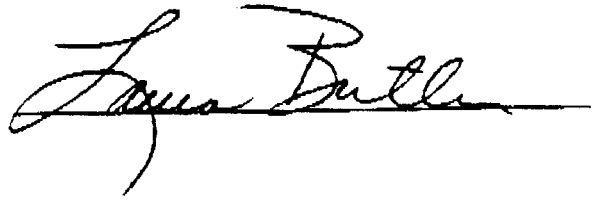

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
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FILE COPY

September 23, 1994

Robert Burnham
Sunnyside Coal Company
1113 Spruce Street
Boulder, Colorado 80302

Re: Findings Concerning Required Performance Bond

Dear Mr. Burnham:

Attached to this letter is the Division's Findings dated September 23, 1994, which support the Division's determination that the required bond for the Sunnyside Mine is $8.6 million. Because the permittee is presently under the protection of the Bankruptcy Act, having filed for Chapter 11 relief in the Federal District Bankruptcy Court for the District of Colorado, the Division is not taking enforcement action to enforce this requirement at this time.

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 the proceedings before the Bankruptcy Court for the purpose of protecting its position as a creditor, as well as supporting its regulatory authority under the state statute. Subject to the approval of the Bankruptcy Court, the Division will enforce these Findings to the full extent provided by law.

If you have any questions or concerns regarding the Division's Findings and determination of bond amount, please feel free to contact me at any time.

Very truly yours,

James W. Carter
Director

lsj
Enclosure
FINDINGS.SSC

Analysis and Findings
Reclamation Bond Estimate
SUNNYSIDE COAL COMPANY
ACT/007/007
September 22, 1994

INTRODUCTION

These analysis and findings are made to determine the amount of the performance bond required for the Sunnyside Coal Mine, Sunnyside Coal Company (SCC), Permit ACT/007/007, in accordance with the requirements of R645-301-830.400 of the Utah coal mining rules. Evaluation of the bond amount required is necessary because the permittee has failed to meet regulatory requirements which can significantly affect the amount of performance bond required for reclamation. These deficiencies were enumerated in Division Order 94B which required the permittee to submit revised designs and plans for reclamation under the Utah Coal Regulatory Program.

In the findings section of this document, the bond amount required for the Sunnyside Coal Mine is found to be $8,600,000.

ANALYSIS

Disturbed Area Boundary

The permittee has failed to incorporate portal highwalls and face-up areas associated with active mine openings within the disturbed and bonded permit area.. The permittee has failed to include cut and fill areas associated with pads and roads currently used by mining operations. These cut and fill structures are an integral part of the roads, pads and other facilities used during mining operations. Drainages and diversions which were affected by current and previous mining operations have been excluded by the permittee from the disturbed and bonded areas in the plan. Without incorporation of these areas into the bonded and disturbed area boundaries, the permittee cannot effectively reclaim the area to meet post mining land use or approximate original contour requirements.

In a draft reclamation cost estimate submitted by Sunnyside Coal Company to the Division as Table III-24, revised 2/7/94, a summary of the disturbed areas acreages for the permit area was provided. This table indicates that the total disturbed area for the site totals 181.6 acres. An evaluation of the maps and aerial photography of the permit area shows that the disturbed area boundaries do not correspond to the areas indicated on the maps and drawings. The disturbed area boundaries on the current maps correlate only to surfaces of the pads and roads. These boundaries do not include the cut and fill areas above and below these features.

Any interpretation of the maps and drawings provided in the reclamation plan produce a wide variation in the amount of acres measured due in part to an inappropriate map scale of

1"=500' and the lack of map details on the drawings. Evaluation of the maps yielded disturbed area acres ranging from 200 to over 400 acres. Reliance on the information presented on the maps in the plan generated a moderate figure of 285 acres of total disturbed area for the purpose of cost estimation for bonding. In comparison to the 181.6 acres currently presented in the plan, this represents an increase in the disturbed area acreage of 103.4 acres.

The adjusted disturbed area acreages are shown in Table 2 - Disturbed Area Acreages. These adjusted acreages are for the purposes of cost estimation only. A more detailed delineation of these boundaries was required of SCC by Division Order 94B.

Land Use

Much of the cost estimation information provided in the plan by the permittee is based on alternate post mining land uses which would allow for the retention of certain structures and facilities including, but not limited to; offices, shops, pad areas, railroad spurs, and roads. Alternate post mining land use must be approved in accordance with the requirements of R645-301-413. Information regarding alternate post mining land use has not been received or approved by the Division. Therefore, adequate bond must be provided to reclaim the land to the pre-mining land use.

Criteria used for determining reclamation costs must take into account the possibility that if a proposed alternate land use fails to meet reclamation success standards for bond release, the site can be reclaimed to the pre-mining land use. The reclamation bond amount is the cost required to return the land to the original pre-mining land use following the cessation of mining operations. Any reductions based on an alternate land use which would effectively reduce the bond amount can not be allowed until such time as the area meets all other regulatory requirements for bond release. Bonding costs are therefore based on the costs for removal of structures and facilities and reconfiguration of the land to its pre-mining land use.

Currently, the plan lacks any specificity to allow the Division to approve any alternate post mining land uses.[1] A detailed reclamation plan does not exist which would show costs

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[1]Land use and facilities including utility corridors, right-of-ways, and facilities must be adequately described in the plan. The description must explain the constraints regarding those areas especially in regard to their affect on reclamation requirements and demonstrate that such use constitutes a higher and better land use than the pre mining land use. Alternate post mining land use is subject to a significant revision of the permit, public notice, and written approval by the landowner accepting the alternate post mining land use.

or cost savings from retention of any post mining structures or facilities. Therefore, no consideration has been given to such facilities in this estimate for the required bond amount.

Demolition and Removal

Costs for demolition and removal are found in Table 3 - Demolition and Removal of Facilities. The quantity and type of work described in this table relies on information provided by the permittee. The unit costs are derived from Means Cost Data, 1994.[2]

A summary sheet in Table 3, entitled Summary of Demolition Cost Using Off-Site Disposal, shows cost considerations involving demolition and removal where all foundations, footings, and demolition materials would be removed and all demolition materials would be disposed of off-site. The total cost for demolition and removal based on off-site disposal was found to be $4,077,576.

A second summary sheet in Table 3, entitled Summary of Demolition Cost Using On-Site Disposal and Burial, is also included to show cost savings that might be achieved if a specific reclamation plan were provided to address the final location and disposition of all foundations and demolition material. A significant reduction in the overall demolition cost is primarily due to the reduction of dump charges being reduced from $37.00 per cubic yard for disposal off-site to a landfill to $6.20 for burial of the materials on-site. A second possibility in lowering the demolition and removal cost is allowing 50% of the concrete footers and foundations to be buried in-place during backfilling operations reducing those costs by half. These two factors if proved feasible, reduce the overall demolition cost to $2,180,308. Although the plan has not detailed the extent to which in-place abandonment and burial of foundations and footers will occur, such considerations are reasonable in determination of the bond amount required.

While salvage values for materials and equipment is normally not part of the evaluation of reclamation costs for the determining the bonding amount, salvage values for the demolition and removal of these structures were evaluated and are included in the Summary of Demolition Cost for On-Site Disposal and Burial. Salvage value was based on 25% of the demolition cost for all structures of varying composition as noted in the cost summary. While certain structures and facilities may have a higher individual salvage value, similarly lower values would apply to concrete and masonry structures. The total amount of salvage value derived from the demolition cost was found to be $311,564. This amount however, cannot be incorporated as a reduction in the bond amount required for several

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[2]Means Heavy Construction Cost Data, 1994, 8th Annual Edition, R.S. Means Company, Inc., Kingston, MA.

reasons including variations in fair market value for salvaged materials, program requirements which do not allow property and assets directly pertaining to mining and related activities to be posted as collateral for bonding, and liens or other claims attaching to equipment or materials which may be senior to any claims by the Division for their salvage value.

Costs used in determination of the bond amount will exclude any salvage value, but do allow for on-site disposal and burial of foundations in-place where practical. Therefore, the bond requirement for demolition is $2,180,308 as shown in Table 3, Summary of Demolition Cost Using On-Site Disposal and Burial.

Mine Openings

A total of 42 mine openings exist within the permit area, 33 portals and 9 shafts. Some of these mine openings have been sealed to meet MSHA requirements, but have not been closed to meet requirements for permanent reclamation under the Coal Regulatory Program.[3] For the purposes of the bond amount required, the cost of sealing and reclaiming all mine openings is used since no bond release for any of these mine openings has occurred.

Although the work required for each mine opening varies and specific designs for each mine opening needs to be developed, the following is assumed only for the purposes of this cost estimate. All portals are to be closed by backfilling at a unit cost of $3,000 each. Shafts are found in primarily two different diameters, 16 feet and 7-8 feet in diameter. Shaft closure methods proposed in the current plan call for capping the shafts with a 6" concrete pad, which meets MSHA requirements but does not provide for a permanent type of closure method for final reclamation. Backfilling of these shafts, because of their depth, is considered impractical in that they average 1,600 feet in depth. A suitable closure method for these shafts requires the construction of a reinforced concrete bulkhead capable of sealing the mine opening and supporting backfilled material over the shaft during reclamation backfilling and grading. Construction of the reinforced concrete bulkheads for the shafts has been estimated at $6,000 each for the 7-8' diameter shafts and $12,750 each for the 16' diameter shafts.

A summary of the total cost estimate for sealing mine openings is found in Table 4 -

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[3]SCC has ceased ventilation and dewatering of the mine workings. Incomplete and inadequate sealing of the mine openings at this time poses an immanent danger by allowing access into the mine openings. All openings should be at least temporarily closed as soon as possible to at least meet MSHA's requirements to minimize the hazards associated with access into the mine. Designs for reclamation in permanent closure of all mine openings is deficient in the current mining and reclamation plan and is a priority concern.

Closure of Mine Openings. The total cost for closure of the 42 mine openings is estimated at $103,250.

Earthwork

Backfilling and grading plans for reclamation of the surface facilities and operations are inadequate for the following reasons. (Refer also to Division Order 94B) Contour information on the drawings does not clearly show the location and the extent of the current mining operations and provides no detail with regard to the design detail for reclamation. No cross sections have been prepared by the permittee to show that slopes will be regraded to approximate the original pre-mining surface configuration. All of these are minimum requirements as required under R645-301.521 of the state coal rules. Detailed design information including maps, cross sections and mass balance calculations have not been provided to show that suitable reclamation of the surface operations can be accomplished.

Consequently, there are no detailed earthwork calculations available for evaluation by the Division. Cost estimation for earthwork can only be based on a more generalized, unit cost estimate. The failure of the permittee to accurately delineate the disturbed area boundary also affects the ability of the Division to determine the extent to which reclamation treatments, including backfilling and grading can be accomplished with reasonably available spoil materials.

This information is important because the site consists primarily of pre-SMCRA disturbances where no topsoil materials were salvaged for redistribution. The costs used in determining the bond amount consider the use of existing materials within the disturbed area as substitute topsoil materials. No imported soil materials are factored into the cost estimation. Coal mine waste and refuse materials within the permit area can be incorporated into the fills for highwall elimination and other large fill areas or hauled to the refuse disposal facilities jointly permitted by Sunnyside Coal Company and Sunnyside Cogeneration Associates. Adequate cover materials are believed to exist within the Sunnyside Cogeneration for use as a permanent refuse disposal facility by the permittee although it is no longer controlled by the permittee. No additional borrow areas are likely to be required for the Sunnyside Coal Company operations because all permanent refuse disposal facilities occur within the permit area owned and controlled by Sunnyside Cogeneration Associates.

The cost of backfilling and grading is based on unit cost calculations which are summarized in Table 5 - Reclamation Costs for Backfilling and Grading. the unit costs used for Backfilling and Regrading is based on an average regrading depth of 3 feet and a unit cost of $2.55 per cubic yard. The unit cost of $2.55 per cubic yard is an averaged cost for excavation, haulage, dumping, spreading and compaction of materials throughout the site. Normally the cost for backfilling and grading is based on mass balance calculations,

equipment selection, and productivity calculations in order to determined earthmoving costs. Due to the lack of any of this information in the plan, a more general unit cost is required. For the estimated 285 acres of disturbed area, the calculations yielded 1,379,400 cubic yards of backfilling at a cost of approximately $3,517,000.

Channel Reconstruction and Sediment Control

The plan indicates that no diversion structures are currently planned. Further, no plans requirements to re-establish the drainage areas affected by surface operations are found within the text of the plan.

Grassy Trail Creek has been channelized throughout most of the area affected by mining. Numerous operational disturbed area and undisturbed area diversions exist within the permit area which have altered natural drainage patterns. The permittee's failure to provide a comprehensive reclamation plan with designs and maps to show that drainage areas and permanent diversions are re-established as required by the rules is a subject of Division Order 94B.

For the purpose of determining the bond amount for the restoration of perennial stream channels such as Grassy Trail Creek and for ephemeral/intermittent channel reconstruction, it has been assumed that the elimination of operational diversions and channels which are no longer be needed during reclamation are included in the costs for general backfilling and grading. The cost for perennial stream channel reconstruction is estimated at $95 per lineal foot and for ephemeral/intermittent channel reconstruction at $45 per lineal foot. These costs are associated with the cost of channel reconstruction itself and not with the cost for general grading and earthwork required for re-establishment of the drainage systems.

Sediment control structures are required during phased reclamation activity and involve construction of temporary sediment ponds, diversions and other sediment control structures to maintain adequate sediment control until such time as vegetative growth is established for erosion protection. The plan lacks designs and timing for the installation and removal of such sediment control facilities. In lieu of such designs, a unit cost per acre has been developed for the site for determination of the bond amount. This unit cost for sediment control has been estimated at $350 per acre.

A summary of the cost estimates for channel construction and sediment control is found in Table 6 - Channel Reconstruction and Sediment Control Costs. The total amount estimated for this reclamation work is $580,500.

Revegetation Costs

The cost of revegetation is determined on a per acre basis. Specific treatments and costs associated with seedbed preparation, soil amendments, seed mixture, mulch, and application of seed and mulch are normally used to determine the reclamation costs associated with revegetation. The cost of revegetation is also be dependent on the amount and type of other reclamation work involved on the site as well as the intended post mining land use. However, due to the lack of specific reclamation designs and treatments necessary to determine these costs, a per unit cost of $500 per acre is adopted by the Division. A summary of the revegetation cost associated with the Sunnyside Mine is presented in Table 7 - Revegetation Costs. A total of $142,500 has been estimated for the cost of revegetation.

Other Costs Used for Determination of the Bond Amount

In addition to the specific areas of reclamation described above, several other costs are associated with the determination of the bond amount. These costs include costs of administration, design and engineering, maintenance and monitoring, and escalation of the bond amount. The Division has derived these costs from other performance bonds in Utah and actual reclamation experience. These cost factors have been incorporated into Table 1 - Summary of Reclamation Costs.

Administrative, design and engineering costs are those costs which would be required to develop specific engineering plans and specification for bidding and construction as well as those costs required to inspect and manage the site administratively throughout reclamation construction. For the purposes of this bond estimate the administrative, design and engineering costs are set at 6% of the reclamation costs.

Maintenance and monitoring costs are costs necessary to maintain and monitor the site to meet and demonstrate compliance with the performance standards required for reclamation and for reclamation success. These costs include surface water monitoring, vegetation monitoring, repairs and additional treatments which may be necessary to meet reclamation success throughout the ten-year bond liability period. For the purposes of this cost estimate, maintenance and monitoring costs are set at 6% of the reclamation costs.

Contingency costs are generally based on the reliability of the design information, the cost estimate provided by the operator and additional not factored into other areas of reclamation. Based on the amount of information provided in the approved reclamation plan, a contingency factor of 50% is justified. However, cost estimates set forth in this document have, to some extent, already anticipated these contingencies. Nonetheless, the lack of specificity in the reclamation plan warrants a substantial contingency factor. For the purposes of this cost estimate, the contingency factor is set at 10% of the reclamation costs.

Means Cost Data information is the basis for determining the escalation factor used by

the Division for all coal bonds. For 1994, this escalation factor has been determined to be 2.01% per year. Bonds are escalated to allow for future costs which may be incurred over the permit term. Accordingly, bonds are normally escalated for a 5-year period to ensure adequate bond over the permit term. A memo showing the escalation factor has been attached to this document following the above referenced tables. Calculations used for projecting the escalation factor require compounding the amount at the escalation rate for four years only since the cost estimate allows for the cost in 1994 dollars.

Summary of Reclamation Costs

A summary of the reclamation costs used in determining the bond amount for the Sunnyside Coal Mine are provided in Table 1 - Summary of Reclamation Costs. Demolition and removal costs, closure of mine openings, backfilling and grading, channel reconstruction and sediment control, and revegetation costs constitute the reclamation costs for these specific reclamation treatments. The subtotal of the cost is $6,524,028. In addition to these direct costs for reclamation other costs including administrative, design and engineering, maintenance and monitoring and contingency costs, which increase the amount required for the performance bond by an additional $1,435,286. Escalation of the bond amount for the 5-year period associated with the permit term contributes an additional $659,483 to the bond amount. The total bond amount required is rounded to the nearest $100,000, and is $8,600,000.

Other Cost Estimate Information

In addition to the Division's analysis and estimate of the bond amount, OSM has also conducted an evaluation of the bond amount required based on information collected by OSM and an evaluation of draft cost information provided in that analysis. A summary of this information can be found as an attachment following this analysis as a Memorandum from Karen F. Jass, Mining Engineer, OSM dated September 14, 1994. The consensus of both regulatory authorities is that a bond in the amount of $8,600,000 is required.

The variation in the conditions and assumptions regarding the site work required due to the lack of specificity in the plan produced a wide range of possible bond calculations by both the Division and OSM ranging from $4.8 to $28.4 million. The most significant costs associated involved the possibility of the removal of contaminated soils and PCB transformers which varied from $80,000 to $5,000,000. Additionally, backfilling and grading costs involving the source of the materials to be used for backfilling and grading and topsoil caused the cost estimates to range from $300,000 to over $9,000,000 for regrading costs. This type of cost fluctuation can be expected due to the lack of information presented in the plan regarding reclamation designs. Without clear and specific designs demonstrating compliance with the coal program, a definitive cost estimate for actual reclamation cannot be readily

determined.

Determination of Bond Amount Required

Based on the estimate presented in these analysis, the bond amount is set at $8,600,000. Although this amount is not the highest amount which may be justified, it does demonstrate a reasonable amount required for bonding. This bond amount could change if the permittee submitted a detailed and approvable reclamation plan with appropriate designs and cost information.

Bond Amount Required in Comparison to Actual Reclamation Costs

The determination of the bond amount required by the Division is not intended to be a prediction of the amount a permittee will spend to perform reclamation. Rather it is a determination the regulatory authority is required to make, which predicts what the state would spend if it was required to perform reclamation. While experience has shown that the amount of the performance bond is predictive of the magnitude of the reclamation obligation, in this case, it may understate the permittee's actual costs. This is true, because the state's reclamation costs under bond forfeiture do not reflect the more rigorous performance standards that a non-defaulting permittee is required to incur.

FINDINGS

The minimum bond amount required for the Sunnyside Coal Company is $8,600,000. This bond amount is required to be posted by Sunnyside Coal Company. R645-301-830.400.

ORDER

Sunnyside Coal Company is in non-compliance with the Utah State Coal Program. As found at R645-301-830.400. In order to comply with the requirements of this section, Sunnyside Coal Company must provide a performance bond in the total amount of $8.6 million.

Ordered this 22nd day of September, 1994, by the Division of Oil, Gas, and Mining.

James W. Carter, Director
Division of Oil, Gas and Mining

United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

IN REPLY REFER TO:

September 14, 1994

TO: Randy Harden, Senior Reclamation Engineer
Utah Division of Oil, Gas and Mining

From: Karen F. Jass, Mining Engineer
Engineering Support Section

Through: Michael Rosenthal, Chief
Physical Sciences Branch

Subject: Proposed Cost Estimate for Reclamation of Sunnyside Coal Company, Sunnyside, Utah.

The recommended OSM estimate for the reclamation of the Sunnyside Coal Company is $8,600,000.

As discussed during phone conversations with you, this estimate does not include the cost for removal of highly contaminated (PCB) soils. This estimate does assume all replacement soil material is available within the permit boundaries, and that 50% of foundations, demolished material, and footers are hauled to an on-site disposal area. These three costs are reasonable assumptions for most demolition operations, and the costs reflect the minimization of moving the materials.

Using the DOGM estimate as a base, I added a figure of $139,029 for demolition and disposal of facilities shown on the map, but not addressed in the SCC or DOGM cost estimates. In addition, my estimate for engineering, design, and administration costs was $362,400, replacing the DOGM figure of $320,111. Using the DOG procedure for calculation of future costs (2.01%) the total estimate was $8,565,233, or rounded to $8,600,000.

If I can be of furhter assistance or if I can answer any questions, please contact me at (303) 672-5561.

DIRECT COSTS

Demolition/Removal of Facilities

$	2,058,476	(DOG)
$	139,029	(additional costs from map)
$	2,197,505	Total

Closure of Mine Openings

$ 103,250 (DOGM)

Backfilling and Grading (average 3 feet of material)

$ 3,517,470 (DOGM)

Channel Reconstruction and Sediment Control

$ 580,500 (DOGM)

Revegetation (285 AC at $500/AC)

$ 142,500 (DOGM)

TOTAL DIRECT COSTS $ 6,541,225

INDIRECT COSTS

Administrative/Design/Engineering

$ 362,400

Maintenance/Monitoring (3%)

$ 196,237 (DOGM)

Contingency (10%)

$ 654,123 (DOGM)

TOTAL INDIRECT COSTS $ 1,212,760

TOTAL DIRECT AND INDIRECT COSTS $ 7,753,985

Escalation @ 2.01 over 4 years $ 811,238

Overall Bond Estimate $ 8,565,223

Assumptions for Engineering/Design/Administration Cost Estimate

1 Engineer X 40 hours/week X 24 weeks (6 months) X $150/hour =

$ 144,000

Surveying Crew - Initial

3 person crew X 40 hours/week X 4 weeks X $40/hour =

$ 19,200

Site Visit by Engineer

1 Engineer X 1 day/week X 4 weeks/month X 30 months X $150/hour X 10 hours/day =

$ 180,000

Surveying Crew - Final

3 person crew X 40 hours/week X 4 weeks X $40/hour =

$ 19,200

Total Assumed Cost **$ 362,400**

TABLE 1 - SUMMARY OF RECLAMATION COSTS

This summary of reclamation costs for determination of the bond amount are based on those assumptions found in Tables 2 through 7 and as further explained in the analysis and findings.

TABLE	DESCRIPTION	SUBTOTALS	BOND AMOUNT REQUIRED Until detail is provided for reclamation design
2	Disturbed Area Acreage	285.0	
3	Demolition and Removal of Facilities		
	Off-Site Disposal	$3,805,165	
	On-Site Disposal and Burial	$2,180,308	$2,180,308
	Salvage Value	($311,564)	
4	Closure of Mine Openings	$103,250	$103,250
5	Backfilling and Grading	$3,517,470	$3,517,470
6	Channel Reconstruction and Sediment Control	$580,500	$580,500
7	Revegetation	$142,500	$142,500
	Subtotal Reclamation Costs		$6,524,028
	Other Costs		
	Administrative, Design and Engineering @ 6%		$391,442
	Maintenance and Monitoring @ 6%		$391,442
	Contingency @ 10%		$652,403
	Subtotal Other Costs		$1,435,286
	Subtotal Escalation @ 2.01% per yr for 4 yrs		$659,483
	Total Bond Amount Required (rounded to the nearest $100.000)		$8,600,000

TABLE 2 - DISTURBED AREA ACREAGES			Page 1
			ADJUSTED
AREA	DESCRIPTION	ACRES	ACRES
1	Surface Facilities Area	65.0	90.0
	Railroad Right-of-Way (Permanent)	4.5	5.0
	Permanent Road to No. 2 Canyon	2.8	9.0
	Subtotal	72.3	104.0
2	Fan Canyon - No. 2 Mine Fan Pad	1.3	3.0
	Fan Canyon Road	2.0	6.0
	Subtotal	3.3	9.0
3	Whitmore Fan Shaft Area	6.3	8.0
	Whitmore Return Shaft Area	0.9	2.0
	Subtotal	7.2	10.0
4	No. 2 Canyon Yard	6.4	13.0
	Permanent No. 2 Canyon Road	6.2	15.0
	No. 2 Canyon Fan Pad & Access Road	1.5	5.0
	Subtotal	14.1	33.0
5	Water Canyon Portals - No. 2 Mine	2.2	4.0
	Water Canyon Refuse Area	3.7	4.0
	Water Canyon Road	5.4	15.0
	Subtotal	11.3	23.0
6	Manshaft Substation Area	5.7	6.0
	Twinshaft Mine-Water Pond	3.5	4.0
	Permanent West Ridge Road	1.3	4.0
	Whitmore Canyon County Road	1.1	2.0
	Reclamation Test Plot	0.1	1.0
	Subtotal	11.7	17.0

TABLE 2 - DISTURBED AREA ACREAGES

AREA	DESCRIPTION	ACRES	ADJUSTED ACRES
7	Rail Loop Area Plate III-2	12.6	23.0
	Plate III - 23	12.6	13.0
	Railroad Right-of-Way (Permanent)	1.1	2.0
	Subtotal	26.3	38.0
8	Outcrop Fan Road	6.4	10.0
	Outcrop Power Line Corridor	8.4	10.0
	Outcrop Fan Pad - No. 1 Mine	2.0	3.0
	Subtotal	16.8	23.0
9	Pole Canyon Shaft Pad & Access Road	1.3	5.0
	Permanent Pole Canyon Road	1.8	6.0
	002B Mine-Water Pond	2.6	3.0
	Manshaft - Twinshaft	12.9	14.0
	Subtotal	18.6	28.0
	TOTALS	181.6	285.0

Acres provided in this table correspond to draft information regarding boning costs by Sunnyside Coal Company as Table III-24, revised 2/7/94. Adjusted acres shown in the table represent an estimated total disturbed area which incorporates additional areas into the disturbed area to offset discrepancies in the maps and plan information provided by SCC. These adjusted acres are for the purposes of cost estimation only until such time the SCC can provide detailed maps and cost information.

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
DETAILED BREAKDOWN OF UNIT QUANTITIES FOR DEMOLITION AND REMOVAL							
Cleanup							
General Cleanup	General Cleanup	$1,000.00	AC	285	AC		
PCB Removal	Oil Disposal	$7.50	GL	2,500	GL		
Oil Contaminated Soils	Soil Disposal	$45.00	CY	1,700	CY		
Power Lines							
Remove Poles	Pole	$100.00	EA	88	EA		
Minewater Pipelines							
Remove Pipelines	Remove Pipe	$1.87	LF	7,700	LF		
Parking Lot							
Remove Pavement	Pavement removal, bituminous, 3" thick	$3.90	SY	11,400	SY		
Disp. of Pavement	Add for disposal, on site	$6.20	CY	1,235	CY		
Materials Track							
Track Removal	Remove ties and track	$15.80	LF	5,400	LF		
Remove Ballast	Ballast	$3.47	CY	2,400	CY		
Ballast Disp.	Add for disposal, on site	$6.20	CY	2,400	CY		
Main Office							
Structure	Mixture of type, average	$0.21	CF	36,210	CF		
Dump Charge	Demolition Materials	$37.00	CY	469	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,550	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	61	CY		
Footer Demo.	1.5'x2'	$12.70	LF	202	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	19	CY		
Warehouse							
Structure	Mixture of type, average	$0.21	CF	329,544	CF		
Dump Charge	Demolition Materials	$37.00	CY	4,272	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	14,328	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	345	CY		
Footer Demo.	1.5'x3'	$15.90	LF	542	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	117	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Main Changehouse							
Structure	Mixture of type, average	$0.21	CF	285,775	CF		
Dump Charge	Demolition Materials	$37.00	CY	3,704	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	12,425	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	299	CY		
Footer Demo.	1.5'x2'	$12.70	LF	492	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	107	CY		
Training Building							
Structure	Mixture of type, average	$0.21	CF	75,480	CF		
Dump Charge	Demolition Materials	$37.00	CY	978	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	4,440	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	107	CY		
Footer Demo.	1.5'x2'	$12.70	LF	314	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	68	CY		
Shop							
Structure	Mixture of type, average	$0.21	CF	762,348	CF		
Dump Charge	Demolition Materials	$37.00	CY	9,882	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	20,604	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	496	CY		
Footer Demo.	1.5'x2'	$12.70	LF	608	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	132	CY		
Warehouse Annex							
Structure	Mixture of type, average	$0.21	CF	82,620	CF		
Dump Charge	Demolition Materials	$37.00	CY	1,071	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	6,120	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	147	CY		
Footer Demo.	1.5'x3'	$15.90	LF	468	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	101	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Engineering Office							
Structure	Mixture of type, average	$0.21	CF	28,431	CF		
Dump Charge	Demolition Materials	$37.00	CY	369	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,106	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	51	CY		
Footer Demo.	1.5'x2'	$12.70	LF	186	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	40	CY		
Backfill Building							
Structure	Concrete	$0.29	CF	214,326	CF		
Dump Charge	Demolition Materials	$37.00	CY	2,778	CY		
Foundation Demo.	Mesh reinforcing	$96.00	CY	221	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	287	CY		
Footer Demo.	1.5'x3'	$15.90	LF	260	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	56	CY		
Preparation Plant							
Structure	Concrete	$0.29	CF	480,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	6,222	CY		
Foundation Demo.	Mesh reinforcing	$96.00	CY	1,067	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	1,387	CY		
Footer Demo.	2'x3'	$18.10	LF	400	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	87	CY		
Crusher							
Structure	Concrete	$0.29	CF	70,200	CF		
Dump Charge	Demolition Materials	$37.00	CY	910	CY		
Foundation Demo.	Mesh reinforcing	$96.00	CY	200	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	260	CY		
Footer Demo.	2'x3'	$18.10	LF	180	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	39	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Blending Bins							
Structure	Concrete	$0.29	CF	338,100	CF		
Dump Charge	Demolition Materials	$37.00	CY	4,383	CY		
Foundation Demo.	Mesh reinforcing	$96.00	CY	544	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	707	CY		
Footer Demo.	2'x3'	$18.10	LF	350	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	76	CY		
Clean Coal Stockpile Belt							
Concrete Pier							
Foundation Demo.	Mesh reinforcing	$96.00	CY	7	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	9	CY		
Concrete Pier							
Foundation Demo.	Mesh reinforcing	$96.00	CY	7	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	9	CY		
Concrete Pier - 2							
Foundation Demo.	Mesh reinforcing	$96.00	CY	14	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	18	CY		
Concrete Pier at Tower							
Foundation Demo.	Mesh reinforcing	$96.00	CY	25	CY		
Foundation Disp.	Ad' for disposal, on site	$6.20	CY	34	CY		
Concrete Pier - 14							
Foundation Demo.	Mesh reinforcing	$96.00	CY	28	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	36	CY		
Loadout Conveyor							
Conveyer	Conveyor Removal	$15.04	LF	1,230	LF		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Rotary Car Dump							
Structure	Concrete	$0.29	CF	720	CF		
Dump Charge	Demolition Materials	$37.00	CY	9	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	100	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	2	CY		
Footer Demo.	2'x3'	$18.10	LF	40	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	9	CY		
Prep Plant Office							
Structure	Masonry	$0.21	CF	2,848	CF		
Dump Charge	Demolition Materials	$37.00	CY	37	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	320	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	8	CY		
Footer Demo.	1.5'x2'	$12.70	LF	72	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	16	CY		
Prep Plant Belt MCC Bldg							
Structure	Masonry	$0.21	CF	3,658	CF		
Dump Charge	Demolition Materials	$37.00	CY	47	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	389	SF		
Foundation Disp.	Ad' for disposal, on site	$6.20	CY	9	CY		
Footer Demo.	1.5'x2'	$12.70	LF	79	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	17	CY		
Material Foreman's Office							
Structure	Masonry	$0.21	CF	2,592	CF		
Dump Charge	Demolition Materials	$37.00	CY	34	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	320	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	8	CY		
Footer Demo.	1.5'x2'	$12.70	LF	72	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	16	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Hoist House No.3 Mine							
Structure	Concrete	$0.29	CF	38,016	CF		
Dump Charge	Demolition Materials	$37.00	CY	493	CY		
Foundation Demo.	Mesh reinforcing	$96.00	CY	117	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	152	CY		
Footer Demo.	2'x3'	$18.10	LF	194	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	42	CY		
No.3 Slope Ramp Walls							
Wall Demo	8" thick	$1.70	SF	1,050	SF		
Wall Disp.	Add for disposal, on site	$6.20	CY	51	CY		
Manshaft Bathhouse							
Structure	Mixture of type, average	$0.21	CF	60,800	CF		
Dump Charge	Demolition Materials	$37.00	CY	788	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	4,000	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	96	CY		
Footer Demo.	1.5'x2'	$12.70	LF	280	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	61	CY		
Manshaft Bathhouse							
Structure	Masonry	$0.21	CF	7,387	CF		
Dump Charge	Demolition Materials	$37.00	CY	96	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	648	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	16	CY		
Footer Demo.	1.5'x2'	$12.70	LF	102	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	22	CY		
Headframe Manshaft							
Structure	Mixture of type, average	$0.21	CF	7,200	CF		
Dump Charge	Demolition Materials	$37.00	CY	93	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	180	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	4	CY		
Footer Demo.	1.5'x2'	$12.70	LF	54	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	12	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Bulk Rock Dust Tank							
Structure	Mixture of type, average	$0.21	CF	1,507	CF		
Dump Charge	Demolition Materials	$37.00	CY	20	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	64	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	2	CY		
Footer Demo.	1.5'x3'	$15.90	LF	32	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	7	CY		
No 3 Mine Milk Building							
Structure	Mixture of type, average	$0.21	CF	3,465	CF		
Dump Charge	Demolition Materials	$37.00	CY	45	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	398	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	10	CY		
Footer Demo.	2'x3'	$18.10	LF	80	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	17	CY		
Garage @ Mouth No. 2 Cyn							
Structure	Mixture of type, average	$0.21	CF	6,048	CF		
Dump Charge	Demolition Materials	$37.00	CY	78	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	672	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	16	CY		
Footer Demo.	1.5'x2'	$12.70	LF	104	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	23	CY		
No. 2 Canyon Trestle Bldg.							
Structure	Concrete	$0.29	CF	4,453	CF		
Dump Charge	Demolition Materials	$37.00	CY	58	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	405	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	10	CY		
Footer Demo.	1.5'x3'	$15.90	LF	83	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	18	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
No.2 Canyon Repair Shop							
Structure	Mixture of type, average	$0.21	CF	1,762	CF		
Dump Charge	Demolition Materials	$37.00	CY	23	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	198	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	5	CY		
Footer Demo.	1.5'x3'	$15.90	LF	57	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	12	CY		
No. 2 Canyon Material Shed							
Structure	Mixture of type, average	$0.21	CF	22,698	CF		
Dump Charge	Demolition Materials	$37.00	CY	294	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,522	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	61	CY		
Footer Demo.	1.5'x3'	$15.90	LF	299	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	65	CY		
Manshaft Milk Building							
Structure	Mixture of type, average	$0.21	CF	2,394	CF		
Dump Charge	Demolition Materials	$37.00	CY	31	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	252	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	6	CY		
Footer Demo.	1.5'x3'	$15.90	LF	64	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	14	CY		
Substation, Outcrop							
Structure	Mixture of type, average	$0.21	CF	50,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	648	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	60	CY		
Footer Demo.	1.5'x2'	$12.70	LF	200	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	43	CY		
Transformer	750 KVA	$735.00	EA	1	EA		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Substation, Hillside							
Structure	Mixture of type, average	$0.21	CF	50,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	648	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	60	CY		
Footer Demo.	1.5'x2'	$12.70	LF	200	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	43	CY		
Transformer	750 KVA	$735.00	EA	1	EA		
Substation, Roadside							
Structure	Mixture of type, average	$0.21	CF	50,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	648	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	60	CY		
Footer Demo.	1.5'x2'	$12.70	LF	200	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	43	CY		
Transformer	750 KVA	$735.00	EA	1	EA		
Substation, Whitmore fan							
Structure	Mixture of type, average	$0.21	CF	50,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	648	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	60	CY		
Footer Demo.	1.5'x2'	$12.70	LF	200	LF		
Footer Disp.	Add for dibposal, on site	$6.20	CY	43	CY		
Transformer	750 KVA	$735.00	EA	1	EA		
Substation, Manshaft							
Structure	Mixture of type, average	$0.21	CF	50,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	648	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	60	CY		
Footer Demo.	1.5'x2'	$12.70	LF	200	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	43	CY		
Transformer	750 KVA	$735.00	EA	1	EA		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Fan, Shop Fan							
Structure	Mixture of type, average	$0.21	CF	18,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	233	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	1,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	36	CY		
Footer Demo.	1.5'x3'	$15.90	LF	170	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	37	CY		
Fan, No. 2 Cyn Air Shaft	Removed 1993						
Fan, Outcrop							
Structure	Mixture of type, average	$0.21	CF	18,000	CF		
Duip Charge	Demolition Materials	$37.00	CY	233	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	1,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	36	CY		
Footer Demo.	1.5'x3'	$15.90	LF	170	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	37	CY		
Fan, Whitmore Cyn							
Structure	Mixture of type, average	$0.21	CF	18,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	233	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	1,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	36	CY		
Footer Demo.	1.5'x3'	$15.90	LF	170	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	37	CY		
Fan, Twin Shafts							
Structure	Mixture of type, average	$0.21	CF	18,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	233	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	1,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	36	CY		
Footer Demo.	1.5'x3'	$15.90	LF	170	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	37	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Power Magazine							
Structure	Concrete	$0.29	CF	960	CF		
Dump Charge	Demolition Materials	$37.00	CY	12	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	120	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	3	CY		
Footer Demo.	1.5'x2'	$12.70	LF	44	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	10	CY		
Detonator Caps Magazine							
Structure	Concrete	$0.29	CF	960	CF		
Dump Charge	Demolition Materials	$37.00	CY	12	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	120	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	3	CY		
Footer Demo.	1.5'x2'	$12.70	LF	44	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	10	CY		
Mine Water Tank (015)							
Structure	Mixture of type, average	$0.21	CF	69,237	CF		
Dump Charge	Demolition Materials	$37.00	CY	898	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	3,847	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	93	CY		
Footer Demo.	2'x3'	$18.10	LF	140	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	30	CY		
Mine Water Tank (015)							
Structure	Mixture of type, average	$0.21	CF	69,237	CF		
Dump Charge	Demolition Materials	$37.00	CY	898	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	3,847	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	93	CY		
Footer Demo.	2'x3'	$18.10	LF	140	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	30	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Other Facilities Show on Maps But Not Found in Estimate by Permittee							
No. 3 Slope Belt Building							
Structure	Mixture of type, average	$0.21	CF	13,500	CF		
Dump Charge	Demolition Materials	$37.00	CY	500	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	1,200	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	600	CY		
Footer Demo.	2'x3'	$18.10	LF	150	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	16	CY		
Wood Retaining Walls, No. 2 Canyon							
Structure	Mixture of type, average	$0.21	CF	5,860	CF		
Dump Charge	Demolition Materials	$37.00	CY	217	CY		
Boiler Foundation							
Foundation Demo.	Mesh reinforcing	$96.00	CY	28	CY		
Foundation Disp.	Add for disposal, on site	$6.20	CY	28	CY		
Footer Demo.	2'x3'	$18.10	LF	90	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	10	CY		
Diesel Fuel Storage Tanks							
Structure	Mixture of type, average	$0.21	CF	4,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	4	CY		
Footer Demo.	2'x3'	$18.10	LF	160	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	16	CY		
Bridge, No. 2 Canyon							
Structure	Mixture of type, average	$0.21	CF	2,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	74	CY		
Underground Railroad Tunnel at Loadout							
Structure	Mixture of type, average	$0.21	CF	11,340	CF		
Dump Charge	Demolition Materials	$37.00	CY	420	CY		
Footer Demo.	2'x3'	$18.10	LF	500	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	122	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Thickener 120' dia.							
Footer Demo.	2'x3'	$18.10	LF	378	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	70	CY		
Fence Removal							
Chain Link Bence	Removal	$0.71	LF	2,181	LF		
Barbed Wire Fence	Removal	$1.55	LF	471	LF		
Guard Rails - Road							
Guard Rails	Dismantle	$3.58	LF	3,800	LF		
Dump Charge	Demolition Materials	$37.00	CY	500	CY		
Bridge Engineering Building							
Structure	Mixture of type, average	$0.21	CF	14,400	CF		
Dump Charge	Demolition Materials	$37.00	CY	533	CY		
Footer Demo.	2'x3'	$18.10	LF	60	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	14	CY		
Mantrip Underpass & Rockslope Tunnel No. 1							
Structure	Mixture of type, average	$0.21	CF	111	CF		
Dump Charge	Demolition Materials	$37.00	CY	4	CY		
Footer Demo.	2'x3'	$18.10	LF	80	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	8	CY		
Shop Fan							
Structure	Mixture of type, average	$0.21	CF	4,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	296	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	2,500	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	8	CY		
Footer Demo.	2'x3'	$18.10	LF	200	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	12	CY		
Concrete Retaining Wall - Bathhouse							
Wall Demo	8" thick	$1.70	SF	2,400	SF		
Wall Disp.	Add for disposal, on site	$6.20	CY	64	CY		
Footer Demo.	2'x3'	$18.10	LF	300	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	34	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
Manshaft Water Tank							
Structure	Mixture of type, average	$0.21	CF	69,237	CF		
Dump Charge	Demolition Materials	$37.00	CY	898	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	7,694	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	186	CY		
Footer Demo.	2'x3'	$18.10	LF	280	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	60	CY		
Manshaft Pump House							
Structure	Mixture of type, average	$0.21	CF	3,200	CF		
Dump Charge	Demolition Materials	$37.00	CY	118	CY		
Foundation Demo.	6" thick reinforced	$4.64	SF	400	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	8	CY		
Footer Demo.	2'x3'	$18.10	LF	80	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	8	CY		
Outcrop - Concrete Pad							
Foundation Demo.	6" thick reinforced	$4.64	SF	100	SF		
Foundation Disp.	Add for disposal, on site	$6.20	CY	2	CY		
Footer Demo.	2'x3'	$18.10	LF	40	LF		
Footer Disp.	Add for disposal, on site	$6.20	CY	4	CY		
Trolley Wire and Support Structures							
Structure	Mixture of type, average	$0.21	CF	7,000	CF		
Dump Charge	Demolition Materials	$37.00	CY	260	CY		

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
SUMMARY OF DEMOLITION COST USING OFF-SITE DISPOSAL							
General Cleanup	General Cleanup	$1,000.00	AC	285	AC	$285,000	
PCB Removal	Oil Disposal	$7.50	GL	2,500	GL	$18,750	
Oil Contaminated Soils	Soil Disposal	$45.00	CY	1,700	CY	$76,500	
Remove Poles	Pole	$100.00	EA	88	EA	$8,800	
Remove Pipelines	Remove Pipe	$1.87	LF	7,700	LF	$14,399	
Remove Pavement	Pavement removal, bituminous, 3" thick	$3.90	SY	11,400	SY	$44,460	
Disp. of Pavement	Add for disposal, on site	$6.20	CY	1,235	CY	$7,657	
Track Removal	Remove ties and track	$15.80	LF	5,400	LF	$85,320	
Remove Ballast	Ballast	$3.47	CY	2,400	CY	$8,328	
Ballast Disp.	Add for disposal, on site	$6.20	CY	2,400	CY	$14,880	
Chain Link Fence	Removal	$0.71	LF	2,181	LF	$1,549	
Barbed Wire Fence	Removal	$1.55	LF	471	LF	$730	
Guard Rails	Dismantle	$3.58	LF	3,800	LF	$13,604	
Structure	Mixture of type, average	$0.21	CF	2,295,544	CF	$482,064	
Structure	Concrete	$0.29	CF	1,147,735	CF	$332,843	
Structure	Masonry	$0.21	CF	16,485	CF	$3,462	
Dump Charge	Demolition Materials	$37.00	CY	46,357	CY	$1,715,209	
Foundation Demo.	6" thick reinforced	$4.64	SF	111,269	SF	$516,288	
Foundation Demo.	Mesh reinforcing	$96.00	CY	2,258	CY	$216,768	
Foundation Disp.	Add for disposal, on site	$6.20	CY	6,126	CY	$37,981	
Footer Demo.	1.5'x2'	$12.70	LF	3,653	LF	$46,393	
Footer Demo.	1.5'x3'	$15.90	LF	2,485	LF	$39,512	
Footer Demo.	2'x3'	$18.10	LF	3,842	LF	$69,540	
Footer Disp.	Add for disposal, on site	$6.20	CY	2,010	CY	$12,462	
Wall Demo	8" thick	$1.70	SF	3,450	SF	$5,865	
Wall Disp.	Add for disposal, on site	$6.20	CY	115	CY	$713	
Conveyer	Conveyor Removal	$15.04	LF	1,230	LF	$18,499	
TOTAL - WORST CASE SCENARIO FOR DEMOLITION AND REMOVAL						**$4.077,576**	

TABLE 3 - DEMOLITION AND REMOVAL OF FACILITIES

DESCRIPTION	MATERIALS	UNIT COST	UNIT	QUANTITY	UNIT	TOTAL	COMMENT
SUMMARY OF DEMOLITION COST USING ON-SITE DISPOSAL AND BURIAL.							
SALVAGE VALUES (BASED ON 25% OF DEMOLITION COSTS) SHOWN IN COMMENTS							
General Cleanup	General Cleanup	$1,000.00	AC	285	AC	$285,000	($71,250)
PCB Removal	Oil Disposal	$7.50	GL	2,500	GL	$18,750	NO SALVAGE VALUE
Oil Contaminated Soils	Soil Disposal	$45.00	CY	1,700	CY	$76,500	NO SALVAGE VALUE
Remove Poles	Pole	$100.00	EA	88	EA	$8,800	($2,200)
Remove Pipelines	Remove Pipe	$1.87	LF	7,700	LF	$14,399	($3,600)
Remove Pavement	Pavement removal, bituminous, 3" thick	$3.90	SY	11,400	SY	$44,460	NO SALVAGE VALUE
Disp. of Pavement	Add for disposal, on site	$6.20	CY	1,235	CY	$7,657	NO SALVAGE VALUE
Track Removal	Remove ties and track	$15.80	LF	5,400	LF	$85,320	($21,330)
Remove Ballast	Ballast	$3.47	CY	2,400	CY	$8,328	NO SALVAGE VALUE
Ballast Disp.	Add for disposal, on site	$6.20	CY	2,400	CY	$14,880	NO SALVAGE VALUE
Chain Link Fence	Removal	$0.71	LF	2,181	LF	$1,549	($387)
Barbed Wire Fence	Removal	$1.55	LF	471	LF	$730	($183)
Guard Rails	Dismantle	$3.58	LF	3,800	LF	$13,604	($3,401)
Structure	Mixture of type, average	$0.21	CF	2,295,544	CF	$482,064	($120,516)
Structure	Concrete	$0.29	CF	1,147,735	CF	$332,843	($83,211)
Structure	Masonry	$0.21	CF	16,485	CF	$3,462	($865)
Dump Charge	Demolition Materials	$6.20	CY	46,357	CY	$287,413	ON SITE DISPOSAL
Foundation Demo.	6" thick reinforced	$4.64	SF	111,269	SF	$258,144	50% Demolition 50% Buried in Place
Foundation Demo.	Iesh reinforcing	$96.00	CY	2,258	CY	$108,384	50% Demolition 50% Buried in Place
Foundation Disp.	Add for disposal, on site	$6.20	CY	6,126	CY	$18,991	50% Demolition 50% Buried in Place
Footer Demo.	1.5'x2'	$12.70	LF	3,653	LF	$23,197	50% Demolition 50% Buried in Place
Footer Demo.	1.5'x3'	$15.90	LF	2,485	LF	$19,756	50% Demolition 50% Buried in Place
Footer Demo.	2'x3'	$18.10	LF	3,842	LF	$34,770	50% Demolition 50% Buried in Place
Footer Disp.	Add for disposal, on site	$6.20	CY	2,010	CY	$6,231	50% Demolition 50% Buried in Place
Wall Demo	8" thick	$1.70	SF	3,450	SF	$5,865	NO SALVAGE VALUE
Wall Disp.	Add for disposal, on site	$6.20	CY	115	CY	$713	NO SALVAGE VALUE
Conveyer	Conveyor Removal	$15.04	LF	1,230	LF	$18,499	($4,625)
TOTALS - DEMOLITION AND ON-SITE BURIAL AND SALVAGE VALUES						**$2,180,308**	($311,564)

TABLE 4 - CLOSURE OF MINE OPENINGS

The unit cost per mine opening assume an average cost per opening and is not specific to each individual opening for the purposes of determining bonding costs.

AREA	DESCRIPTION	MINE OPENINGS	COST PER OPENING	AMOUNT
1	Surface Facilities Area Portals	5	$3,000	$15,000
	16' dia shafts	1	$12,750	$12,750
2	Fan Canyon - No. 2 Mine Area Portals	3	$500	$1,500
3	Whitmore Fan Shaft Area Portals	0	$500	$0
	16' dia shafts	2	$12,750	$25,500
4	No. 2 Canyon Yard Area	3	$500	$1,500
	7-8' dia shafts	1	$6,000	$6,000
5	Water Canyon Portals - No. 2 Mine Area	8	$500	$4,000
6	Manshaft Substation Area	0	$500	$0
7	Rail Loop Area	3	$500	$1,500
8	Outcrop Fan Area	10	$500	$5,000
	7-8' dia shafts	1	$6,000	$6,000
9	Pole Canyon Area	1	$500	$500
	7-8' dia shafts	4	$6,000	$24,000
	TOTALS	42		$103,250

TABLE 5 - RECLAMATION COSTS FOR BACKFILLING AND GRADING

			BACKFILL AND REGRADING	
AREA	DESCRIPTION	ACRES	YD3	AMOUNT
1	Surface Facilities Area	104.0	503,360	$1,283,568
2	Fan Canyon - No. 2 Mine Area	9.0	43,560	$111,078
3	Whitmore Fan Shaft Area	10.0	48,400	$123,420
4	No. 2 Canyon Yard Area	33.0	159,720	$407,286
5	Water Canyon Portals - No. 2 Mine Area	23.0	111,320	$283,866
6	Manshaft Substation Area	17.0	82,280	$209,814
7	Rail Loop Area	38.0	183,920	$468,996
8	Outcrop Fan Area	23.0	111,320	$283,866
9	Pole Canyon Area	28.0	135,520	$345,576
	TOTALS	285.0	1,379,400	$3,517,470

Backfilling and regrading is based on an average regrading depth of 3.0 feet. The unit cost for regrading includes an average cost for mixed earthmoving and earthwork activities, including dozing, load-haul-dump of fill material, grading and ripping. This unit cost has been estimated at $2.55 per cubic yard based on similar earthmoving and sitework costs. These costs do not allow for or include any costs associated with importing material from off-site. Generally, more specific equipment and productivity costs are used for earthwork calculations but due to the lack of specific and detailed reclamation designs treatments, this more generalized method has been used to evaluate costs for bonding purposes only.

TABLE 6 - CHANNEL RECONSTRUCTION AND SEDIMENT CONTROL COSTS

The unit cost per acre for sediment control includes costs for sediment pond construction and maintenance or other sediment control measures as necessary including but not limited to straw bales, silt fences and temporary surface diversion. Channel construction is for the installation of permanent surface diversion to restore drainage areas to pre-mining conditions.

AREA	DESCRIPTION	ACRES	COST PER ACRE/LF	AMOUNT
1	Surface Facilities Area	104.0	$350	$36,400
	Perennial Channel Reconstruction - lineal feet	3,000.0	$95	$285,000
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	1,500.0	$45	$67,500
2	Fan Canyon - No. 2 Mine Area	9.0	$350	$3,150
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	500.0	$45	$22,500
3	Whitmore Fan Shaft Area	10.0	$350	$3,500
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	100.0	$45	$4,500
4	No. 2 Canyon Yard Area	33.0	$350	$11,550
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	350.0	$45	$15,750
5	Water Canyon Portals - No. 2 Mine Area	23.0	$350	$8,050
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	250.0	$45	$11,250
6	Manshaft Substation Area	17.0	$350	$5,950
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	150.0	$45	$6,750
7	Rail Loop Area	38.0	$350	$13,300
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	500.0	$45	$22,500
8	Outcrop Fan Area	23.0	$350	$8,050
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	500.0	$45	$22,500
9	Pole Canyon Area	28.0	$350	$9,800
	Ephemeral/Intermittent Channel Reconstruction - lineal feet	500.0	$45	$22,500
	TOTALS			$580,500

TABLE 7 - REVEGETATION COSTS

The unit cost per acre for revegetation includes topsoil preparation (not placement), soil sampling and soil amendments, seed, mulch and application.

AREA	DESCRIPTION	ACRES	COST PER ACRE	AMOUNT
1	Surface Facilities Area	104.0	$500	$52,000
2	Fan Canyon - No. 2 Mine Area	9.0	$500	$4,500
3	Whitmore Fan Shaft Area	10.0	$500	$5,000
4	No. 2 Canyon Yard Area	33.0	$500	$16,500
5	Water Canyon Portals - No. 2 Mine Area	23.0	$500	$11,500
6	Manshaft Substation Area	17.0	$500	$8,500
7	Rail Loop Area	38.0	$500	$19,000
8	Outcrop Fan Area	23.0	$500	$11,500
9	Pole Canyon Area	28.0	$500	$14,000
	TOTALS	285.0		$142,500

OCT 19

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

FINDINGS OF PERMIT DEFICIENCY AND ORDER DIVISION ORDER #94-B PERMIT NO. ACT/007/007	)	PETITION FOR INFORMAL CONFERENCE

Sunnyside Coal Company, debtor in possession ("SCC"), by and through its counsel of record hereby contests Division Order #94-B regarding findings of permit deficiency and order concerning Permit No. ACT/007/007 and requests an informal conference pursuant to Utah Code Ann. § 40-10-13(2)(b) on the following grounds:

I. THE AUTOMATIC STAY OF THE BANKRUPTCY COURT PREVENTS ISSUANCE OF DIVISION ORDER 94-B.

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. § 362a, a petition filed under Chapter 11 operates to stay the commencement of a 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 Utah Division of Oil, Gas & Mining ("Division") approved SCC's Mining and Reclamation Plan ("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. Division Order #94-B is stayed by the automatic stay provisions of the federal bankruptcy code.

II. IN THE ALTERNATIVE, IF DIVISION ORDER #94-B IS NOT STAYED, SCC IS STILL ENTITLED TO PURSUE ADMINISTRATIVE REMEDIES.

By letter dated September 23, 1994, the Division issued a findings decision purporting to increase the reclamation liability required for the Sunnyside Mine to $8,600,000.00. The September 23, 1994 findings decision is subject to review at an informal conference pursuant to U.C.A. § R645-301-830.422 following procedures set forth at Utah Code Ann. § 40-10-13(2)(b). These provisions of the Utah Coal Mining and Reclamation Act allows SCC the opportunity to object to the September 23, 1994 findings document and reopens the issue of the adequacy of the MRP addressed in Division Order #94-B. SCC hereby contests the findings decision dated September 23, 1994 and requests an informal conference to review both the reclamation liability and the adequacy of SCC's pre-petition reclamation plan. A separate petition will be filed further contesting the findings decision dated September 23, 1994.

III. SCC HAS RESPONDED TO DIVISION ORDER #94-B AND CONTESTS THE DIVISION'S LETTER OF SEPTEMBER 19, 1994.

By letter dated September 19, 1994, attached as Exhibit "A," the Division improperly attempted to terminate the time set for responses to Division Order #94-B and any extension to that order. This letter has created some confusion because the letter references Division Order #94A. However, assuming that the Division intended this

reference to be Division Order #94-**B**, this letter is inconsistent with the understanding between SCC and the Division regarding the procedure for performing reclamation under SCC's approved MRP for ACT/007/007. On August 11, 1994, Division Director Carter met with SCC at the Sunnyside Mine and agreed to allow SCC to proceed with reclamation on a "design/build" basis. The "design/build" approach was to allow work to proceed based on onsite inspections by the Division. Furthermore, at that time, the parties agreed that available funds are best spent on actual reclamation instead of administrative, legal and engineering costs. See letter to Director James Carter dated September 7, 1994, attached as Exhibit "B." The Division's letter of September 19, 1994 is inconsistent with the agreement between the parties. SCC objects to this letter and respectfully requests an informal conference before the Division regarding the September 19, 1994 letter and the appropriate procedure for achieving final reclamation of the Sunnyside Mine.

RESPECTFULLY SUBMITTED this 19th 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 PETITION FOR INFORMAL CONFERENCE to be hand delivered the 19th 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 A. McKenzie

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

July 7, 1994

Mr. Robert M. Burnham, President
Sunnyside Coal Company
1113 Spruce Street
Boulder, CO 80302

Re: Approval of Removal of Water Canyon Refuse Pile from the Disturbed Area in the Sunnyside Mine Permit Area, Sunnyside Mine, Sunnyside Coal Company, ACT/007/007-92D, Folder #3, Carbon County, Utah

Dear Mr. Burnham:

The Division received three copies of the revised Plate 5-20 on July 5, 1994 that delineates the disturbed area boundary with ten-foot contours, not two-foot contours as requested in the letter of June 8, 1994. However, the Division finds that the reclamation contours for the area can be identified and this letter is the final approval for the removal of Water Canyon Refuse Pile from the disturbed area in the Sunnyside Mine permit area.

Sincerely,

Lowell P. Braxton
Associate Director,. Mining

cc: Pamela Grubaugh-Littig
Mary Ann Wright

orig to Jwc
cc TPB
PB
BR
TMM 10-20-94

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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RESPECTFULLY SUBMITTED this 19th day of October, 1994.

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

CERTIFICATE OF SERVICE

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DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

September 19, 1994

Mr. Robert Burnham
Sunnyside Coal Company
1113 Spruce Street
Boulder, Colorado 80302

Re: Division Order 94A.

Dear Mr. Burnham:

The above referenced Division Order required the operator to provide certain information concerning inadequacies found in its reclamation plan as outlined in the Findings of the Division Order. Performance under the Division Order provided for several alternatives, including setting a schedule for supplying that information. After numerous discussions, letters, and attempts at setting a schedule based upon the agreement of the parties concerning the deficiencies outlined in the Division Order, it has become apparent that the debtor cannot comply with this Order. Therefore, the time set for responses to the Division Order and any extensions for that response are hereby terminated. The Division will take all actions available to it, both in Bankruptcy Court, and under the Coal Regulatory Program, to protect the state and federal regulatory's interest in assuring complete and adequate reclamation of the mine.

Very truly yours,

James W. Carter
Director

lsj
BURNHAM.LTR

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To D DRAGOO	From R. BURNHAM
Co.	Co. SCC
Dept.	Phone # 303-938-1506
Fax # 801-596-2814	Fax #

SUNNYSIDE COA

CORPORATE (

1113 SPRUCE STREET
BOULDER, COLORADO
U.S.A.

PHONE: (303) 938-1506
FAX: (303)938-5005

DATE: September 7, 1994 FROM: RM Burnham
NAME: **Mr. James Carter**
COMPANY: Utah Dept. of Oil, Gas and Mining
FAX: 801-359-3940
PHONE: 801-538-5340

NUMBER OF PAGES: 1

Jim,

In reference to your letters of August 17 and September 2, 1994 and believe that there a number of additional points which should be included in the proposed letter agreement relating to Division Order 94B.

1. Sunnyside Coal Company currently holds an approved mine permit, ACT/007/007 with an approved reclamation bond amount of $1,850,184.

2. We have agreed that Sunnyside Coal Company is better able to reclaim the Sunnyside mine in a cost effective manner than the Division.

3. We have agreed that available funds are best spent on actual reclamation instead of administrative, legal and engineering costs.

4. Based on these points of agreement, plus those points already in your letter, the Division and Sunnyside Coal Company agree that reclamation will be done on a "design/build" basis. The "design/build" approach will allow work to proceed based on on-site inspections by Division personnel authorized to approve work plans. This approach will allow work to proceed in a timely manner and minimize the cost and time delays which will result from lengthy engineering studies.

As an administrative matter, I will have to look into the need for Court approval to enter into this agreement.

cc: Denise Dragoo, Fabian & Clendenin, (801) 596-2814