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

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February 23, 1994

Denise Dragoo
Fabian & Clendenin
215 S State
P.O. Box 510210
Salt Lake City, Utah 84151

Re: Deed of Trust/Sunnyside Coal Letter of February 21, 1994, ACT/007/007,
Folder #3, Carbon County, Utah

Dear Denise:

I have reviewed your letter of February 21, 1994 in response to my letter of February 17, 1994, regarding the proposed transfer of property subject to the Deed of Trust dated March 9, 1989 (the "Trust Deed"). I find nothing in your analysis which changes the Division's position. Your statement of Utah Law concerning the effect of the Trust Deed is accurate. However, you fail to note that title is divisible into both legal and equitable interests. Your proposal to transfer the remaining equitable interest from Sunnyside to a third party, Kilter, Inc., would leave the permittee with no right to possession nor any title in the real property.

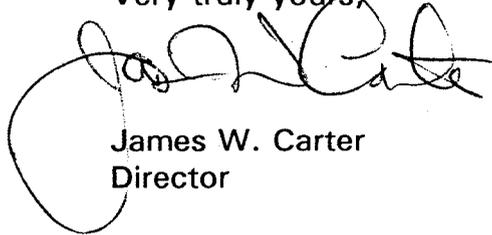
The law of secured transactions is really secondary to the primary issue which is the requirements of section 860.232 which you have requested us to evaluate in light of your proposed transfer of your equitable interest to the third party, Kilter, Inc. Our evaluation is the same as that of Pacific Coast Coal, Inc. 124 IBLA 3370, December 9th, 1992. This case is exactly on point because you have requested the Division to evaluate your proposed action, and because the Division is required, pursuant to 830.410, to periodically re-evaluate both the bond amount and the adequacy of the real property offered to satisfy collateral requirements.



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ACT/007/007
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As you know, the Division and permittee are in the process of finalizing the necessary periodic review of bond amount based on revised plans and maps recently submitted to the Division. The Division would be very sorry to see Sunnyside Coal take any actions which could compromise its ability to remain fully bonded.

Very truly yours,

A handwritten signature in black ink, appearing to read "James W. Carter". The signature is written in a cursive style with a large, prominent loop at the beginning.

James W. Carter
Director

jbe
cc: T. Mitchell, Esq.
H:SUNNYSID.LET