

ATTACHMENT #1

Sunnyside Co-generation Associates
 Citizen Complaint Inspection
 January 10, 1995

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 2
To <i>Joe Hellrich</i>	From <i>Pete Hess</i>	
Co. <i>DOG M</i>	Co. <i>PFO</i>	
Dept.	Phone #	
Fax #	Fax #	

On January 9, 1995 at 17:10 hours, this inspector received a citizen's complaint by telephone from Wilfred Vigil ((801) 888-2213) of Sunnyside, Utah stating that the water well drilling operation which is located in Water Canyon off of Whitmore Canyon was discharging an undesirable product into Grassy Trail Creek. Mr. Vigil stated that he obtained two water samples and photographs of the pollution. He also indicated he witnessed a by-product of the pollution at the Sunnyside Coal Company lower gate (which I later found out was foam that had been re-generated by the turbulent flow of the creek). Mr. Vigil expressed a concern about the fact that numerous children play in close proximity to Grassy Trail Creek and its now possibly contaminated water.

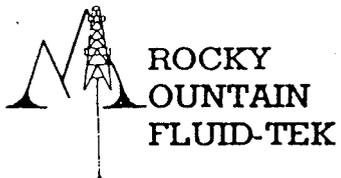
On January 10, 1995, I attempted to contact Mr. Mike Herkimer of the Utah State Division of Water Quality. Mr. Herkimer was at a conference that day and did not return my phone call until the morning of 1/11/95.

On January 10, 1995 at 09:15 I arrived in Sunnyside and checked Grassy Trail Creek at several locations to determine if pollution was evident. Much of the creek was frozen over and/or snowcovered and not much was really evident. I did not know where the drillers were discharging at this point in time.

At that point, I traveled up to the drill rig in Water Canyon and met John A. Martin, the geologist who is monitoring the drilling for Eckhoff, Watson and Praetor. We discussed the complaint and Mr. Martin informed me that they had indeed had a problem with the solution which is used to flush the cuttings from the drill hole. The drill site has three containment ponds. Mr. Martin told me that 5 to 9 gallons of "Rocky Mountain Foamer" are mixed with 1 to 3 quarts of LPT polymer and that the dilution ratio of this mix with water is essentially unknown due to the fact that it is constantly recycled during the drilling process. Upon leaving, I told Mr. Martin that it was my intent to notify the Division of Water Quality, and that it would probably be a good idea to submit a report of the occurrence to cover himself. Mr. Martin also informed me that EWP in Salt Lake City was aware of the incident.

Upon leaving the rig site, I ran into Jim Comas, the field engineer for EWP and discussed the complaint. Jim told me that DWQ was fully aware of what was taking place and that the operation had a UPDES discharge permit. The State Engineer, Mark Page, was also involved. At this time, I noticed foam in the ditches by the road "Y" where the drill rig road shoots off the main canyon road.

When Mike Herkimer returned my phone call at 08:00 on 1/11, we discussed the complaint. He said he was not aware of the incident this time, but that it had occurred before. Mr. Herkimer indicated that DWQ was preparing an administrative order to correct the situation. I gave Mr. Herkimer the complaintant's



Handwritten notes:
5-9 Gallons
Surfactant
1-3 quarts polymer

Advanced Drilling Fluid Technology, Products, and Service

MATERIAL SAFETY DATA SHEET

Date Revised: 10-27-85

I. Product Identification

Product Name: LPT Polymer
Product Type: Copolymer of sodium acrylate and acrylamide dispersed in mineral oil.
Product Description: Off white liquid.

Exposure Limit: (as petroleum solvent)
ACGIH: none OSHA PEL: none
MFRS Recommended: 100 ppm

Carcinogenicity Determination by NTP, IARC, OSHA: None

II. Health Hazards

1. Hazard and First Aid Statements

Nature of Hazard: Moderate to severe eye irritant. Prolonged of repeated skin contact with this product tends to remove skin oils possible leading to irritation and dermatitis.

Primary Routes of Entry: Ingestion, inhalation.

Effects of Overexposure: (Signs and symptoms of exposure). It is unlikely that harmful vapors will be generated unless temperatures well above ambient and open systems are involved. High vapor concentrations (greater than approximately 1000 ppm attainable at temperatures well above ambient) may cause irritation to the eyes and the respiratory tract, along with possible headache and dizziness. Dry skin.

Emergency and First Aid Procedures:

Eye Contact
If splashed into the eyes, flush with clear water for 15 minutes or until irritation subsides. If irritations persists, call a physician.

Skin Contact
In case of skin contact, remove contaminated clothing and wash skin thoroughly with soap and water.

Ingestion
If ingested, do not induce vomiting; remove product from mouth and call a physician.

Inhalation
If overcome by vapor, remove from exposure. If symptoms persist seek medical advice and administer oxygen if necessary.

2. Hazardous Ingredients (concentrations of 1% or greater)

Ingredients:	CAS Number
Mineral Oil	64742-52-5
Petroleum solvent	8032-32-4
Prop. surfactants	proprietary

III. PHYSICAL HAZARDS AND PROPERTIES

1. Fire and Explosion Hazard

Very low risk.
Flash Point - greater than 400 deg. f.
LEL - n/av UEL - n/av

2. Extinguishing Media and Special Fire Fighting Procedures.

Carbon dioxide, dry chemical, foam

3. Reactivity

Materials to Avoid: Avoid contact with strong oxidants such as liquid chlorine, concentrated oxygen, sodium or calcium hypochlorite.

4. Physical Properties

Boiling Point: Greater than 550° f
Vapor Pressure: not available (n/av)
Solubility in Water: moderate (forms viscous, slippery solution)
Evaporation Rate(Ether=1): less than 1
Specific Gravity: Greater than 1

IV. HANDLING PROCEDURES

1. Protective Equipment

Eye Protection: Use splash goggles or face shield when eye contact may occur.

Skin Protection: use chemical resistant gloves, if needed, to avoid prolonged or repeated skin contact. Use chemical resistant apron or impervious clothing if needed, to avoid contaminating regular clothing which could result in prolonged or repeated skin contact.

Respiratory Protection: Normally not needed at ambient temperatures.
Ventilation: Recommend at least ten air changes per hour for good general room ventilation.

2. Personal Hygiene

Minimize breathing vapor or mist. Avoid prolonged or repeated skin contact. Remove contaminated clothing; launder or dry-clean before

reuse. Remove contaminated shoes and thoroughly clean and dry before reuse. Cleanse skin thoroughly after contact, before breaks and meals and at the end of work period. Product is readily removed from skin by washing thoroughly with soap and water.

3. Precautionary Statements

Avoid high temperatures and open system to minimize vapors. Product may create a slip hazard when mixed with water. Spills should be dealt with immediately. Do not reuse containers. "Empty" containers should be completely drained, properly bunged and promptly returned to a drum reconditioner. All other containers should be disposed of in an environmentally safe manner and in accordance with government regulations.

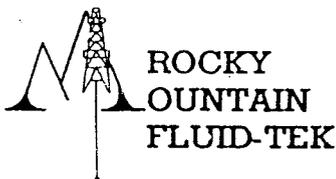
4. Spills, Leaks

Absorb spill with inert material such as sand, earth or speedi-dry and contain for disposal. Flush spill area with copious amounts of water to remove any remaining product. The use of water on large undiluted spills should be avoided. Spills of dilute solutions may be washed away with copious amounts of water. The product or its solutions should not be allowed to enter waterways with treatment. Product should be disposed of in accordance with federal, state, and local government regulations. Caution - when product comes in contact with water it is extremely slippery.

The information and recommendations contained herein are, to the best of Rocky Mountain Fluid-Tek's knowledge and belief, accurate and reliable as of the date issued. Rocky Mountain Fluid-Tek does not warrant or guarantee their accuracy or reliability, and Rocky Mountain Fluid-Tek shall not be liable for any loss or damage arising out of their use thereof. The information and recommendations are offered for the users' consideration and examination, and it is the users' responsibility to satisfy itself that they are suitable and complete for is particular use.

Rocky Mountain Fluid-Tek
1150 North 75 East
Orem, Utah 84057
(801) 224-7695

226-3086
224-0054



ROCKY
MOUNTAIN
FLUID-TEK

Advanced Drilling Fluid Technology, Products, and Service

MATERIAL SAFETY DATA SHEET

Date Revised: 08-89

I. Product Identification

Product Name: Rocky Mountain Foamer
Product Description: Mixed Surfactants

II. Health Hazards

1. Hazard and First Aid Statements

Hazard Rating Scale:

0=Minimal 2=Moderate 3=Serious

Hazard Rating:

Health: 1

Fire: 2

Special: None

2. Hazardous Ingredients (concentrations of 1% or greater)

Ingredients:

Isopropyl Alcohol

CAS Number

76-63-0

Mixed Surfactants

unreported

Exposure Limit: ppm

Isopropyl Alcohol

OSHA PEL: 400 ACGIH TLV: 400

Other Limit: 500 STEL

Flammable, Irritant

Mixed Surfactants

OSHA PEL: None ACGIH TLV: None

Other Limit: None

Irritant

3. Health Hazard Information

Primary Routes of Entry: Skin or eye contact, inhalation.

Signs and Symptoms of Overexposure:

Inhalation: Inhaling fumes may cause giddiness.

Eye Contact: Contact will be painful and irritating.

Skin Contact: No irritation is likely after brief contact but may be irritating after prolonged contact.

Swallowed: None currently known.

Chronic Effects of Exposure: No specific information available.

Medical Conditions Generally Aggravated by Exposure: None

4. Emergency and First Aid Procedures:

Eye Contact

Immediately flush eyes with lots of running water for 15 minutes, lifting the upper and lower eyelids occasionally. Get immediate medical attention.

Skin Contact

Immediately wash skin with lots of soap and water. Remove contaminated clothing and shoes; wash before reuse. Get Medical attention if irritation persists after washing.

Ingestion

Do not induce vomiting. If conscious, give lots of water. Get immediate medical attention. Do not give anything by mouth to an unconscious or convulsing person.

Inhalation

Remove to fresh air. Give artificial respiration if not breathing. Get immediate medical attention.

5. Toxicity Data

Oral: No data found

Dermal: No data found

Inhalation: No data found

Carcinogenicity: This material is not considered to be a carcinogen by the National Toxicology Program, the International Agency for Research on Cancer, or the Occupational Safety and Health Administration.

Other Data: This product could contain as a contaminant at up to a few tenths of a percent, 1,4 Dioxane which can be absorbed by inhalation and through the skin. 1,4 Dioxane has been found to cause cancer in rats when given orally for two years at concentrations of 0.5% and above in drinking water.

III. PHYSICAL HAZARDS AND PROPERTIES

1. Fire and Explosion Hazard

Flash Point - 150 deg. f.
Method Used: SFCC

Flammable Limits in Air, %
Lower: No data found
Upper: No data found

DOB #2
Sheet #2

2. Extinguishing Media and Special Fire Fighting Procedures.

Use water spray, dry chemical, CO², or Alcohol.

Fire fighters should wear self-contained breathing apparatus and full protective clothing. Use water spray to cool nearby containers and structures exposed to fire.

Unusual Fire and Explosion Hazards:
Extinguish all nearby sources of ignition.

3. Reactivity

Stability: Stable

Materials to Avoid: Strong oxidizers, Alkali, Lime or Caustic materials.

Conditions to Avoid: Heat, Sparks, and Open Flames.

Hazardous decomposition products: May liberate carbon monoxide, carbon dioxide, oxides of sulfur, hydrogen sulfide and ammonia.

4. Physical Properties

Boiling Point: Deg. F: 194
Melting Point: Deg. F: Not applicable
Vapor Pressure: MM HG/20 Deg C: 30
Vapor Density (Air=1): <1
Solubility in Water, %: Soluble
Evaporation Rate (Butyl Acetate=1): <1
Specific Gravity (Water=1): 1.079
Appearance and Odor: Combustible Liquid

IV. HANDLING PROCEDURES

1. Handling and Storage Precautions:

Keep away from heat, sparks, and flames. Store in a cool, dry, well-ventilated place away from incompatible materials. Vent container frequently, and more often in warm weather, to relieve pressure. Electrically ground all equipment when handling this product and use only non-sparking tools. Keep container tightly closed when not in use. Do not use pressure to empty container. Wash thoroughly after handling. Do not get in eyes, on skin, or on clothing.

2. Repair and Maintenance Precautions:

Do not cut, grind, weld, or drill on or near this container.

3. Other Precautions:

Containers, even those that have been emptied, will retain product residue and vapors. Always obey hazard warnings and handle

empty containers as if they were full.

4. Spills, Leaks

Wear protective equipment including rubber boots, rubber gloves, rubber apron, and a self-contained breathing apparatus in the pressure demand mode or a supplied-air respirator. If the spill or leak is small, a full facepiece air-purifying cartridge respirator equipped for organic vapors may be satisfactory. In any event, always wear eye protection. Extinguish all ignition sources and insure that all handling equipment is electrically grounded. For small spills or drips, mop or wipe up and dispose of in DOT-approved waste containers. For large spills, contain by diking with soil or other non-combustible absorbent materials and then pump into DOT-approved waste containers; or absorb with non-combustible sorbent material, place residue in DOT-approved waste containers. Keep out of sewers, storm drains, surface waters, and soil. Comply with all applicable governmental regulations on spill reporting, and handling and disposal of waste.

5. Disposal Methods:

Dispose of contaminated product and materials used in cleaning up spills or leaks in a manner approved for this material. Consult appropriate federal, state and local regulatory agencies to ascertain proper disposal procedures. Note: Empty containers can have residues, gases and mists and are subject to proper waste disposal, as above.

V. Personal Protection

Respiratory Protection: A respirator is normally not required if this product is used with adequate ventilation.

Ventilation: General room ventilation.

Eye Protection: Chemical goggles. It is generally recognized that contact lenses should not be worn when working with chemicals because contact lenses may contribute to the severity of an eye injury.

Protective Clothing: Long-sleeved shirt, trousers, safety shoes, rubber gloves, and rubber apron.

Other Protective Measures: An eyewash and safety shower should be nearby and ready for use.

Personal Hygiene

Minimize breathing vapor or mist.

Avoid prolonged or repeated skin contact. Remove contaminated

clothing; launder or dry-clean before reuse. Remove contaminated shoes and thoroughly clean and dry before reuse. Cleanse skin thoroughly after contact,

before breaks and meals and at the end of work period. Product is readily removed from skin by washing thoroughly with soap and water.

VI. Other Regulatory Information

This product contains the following toxic chemical(s) subject to the reporting requirements of section 313 of title III of the superfund amendments and reauthorizations act of 1986 and 40 CFR Part 372:

Name: 1,4 Dioxane CAS No. 123-91-1
%, Wt.: Unknown

This product contains the following chemicals considered by the state of California's Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) as causing cancer or reproductive toxicity and for which warnings are now required.

Name: 1,4 Dioxane CAS No. 123-91-1

Rocky Mountain Fluid-Tek expressly disclaims all express or implied warranties of merchantability and fitness for a particular purpose, with respect to the product or information provided herein. All information appearing herein is based upon data obtained from the manufacturer and/or recognized technical sources. While the information is believed to be accurate, Rocky Mountain Fluid-Tek makes no representations as to its accuracy or sufficiency. Conditions of use are beyond Rocky Mountain Fluid-Tek's control and therefore users are responsible to verify this data under their own operating conditions to determine whether the product is suitable for their particular purposes and they assume all risks of their use, handling, and disposal of the product, or from the publication or use of, or reliance upon, information contained herein. This information relates only to the product designated herein, and does not relate to its use in combination with any other material or in any other process.

Rocky Mountain Fluid-Tek
1150 North 75 East
Orem, Utah 84057
(801) 224-7695

June 10, 1988

Mr. David Raddatz
Rocky Mountain Fluid Tech
1150 North 75 East
Orem, Utah 84057

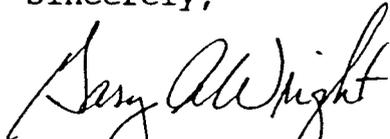
Dear Mr. Raddatz:

Recently, we discussed your concern for the biodegradability and toxicity of RMF-T' product, RM FOAMER normal. As you know, this product is a proprietary blend of anionic surfactants, similar to those ingredients found in consumer products like dish and laundry detergents and shampoos.

While we have not conducted the specific testing you have requested on this product, information is available in the published literature on the individual components of RM FOAMER norm. Information on the same or similar compounds as found in this product indicates that RM FOAMER normal is readily and completely biodegradable and is relatively non-toxic to man.

I hope this information is useful to you; please let us know if you need further assistance.

Sincerely,



Gary A. Wright, Ph.D.

Director, Product Safety

GAW:nsm

ATTACHMENT # 3



Bachman

Drilling & Production Specialties, Inc.

Technical Information

DrillFoam F-450

Heavy Duty Drilling Foamer

PRODUCT FEATURES

- * Highly Effective In Fresh Water & Brines
- * Excellent Hole Cleaning Properties
- * Excellent Hydrocarbon Tolerance
- * For Air Mist & Stable Foam Systems
- * Superior Foam Quality & Stability
- * Biodegradable

PRODUCT DESCRIPTION

DrillFoam F-450 is a specially formulated solution of anionic foaming agents and foam boosters developed for use in air mist and stable foam drilling operations. F-450 has been designed to provide an economical, high performance foaming agent that exhibits superior foam quality and stability in a wide variety of fluids and field conditions. F-450 is recommended for use in fresh water, KCl and field brines. The product also exhibits good stability to down hole hydrocarbon influx. F-450 can be used with compressed air, nitrogen, carbon dioxide or natural gas foam drilling operations. The versatility of F-450, coupled with the product's superior foam quality and stability, make it an excellent choice for air mist, stable foam and stiff foam drilling operations.

TYPICAL PHYSICAL PROPERTIES

Form, @ 70°F	Liquid	Solubility	
Density, (lb/gal)	8.51	Fresh Water	Soluble
Flash Point, °F, (TCC)	111	High TDS Brine	Soluble
Pour Point, °F	-30	Hydrocarbon	Insoluble
pH, (10% Solution)	8.5 - 9.0	Ionic Charge	Anionic

RECOMMENDED APPLICATION

F-450 may be metered into the mist fluid with a chemical pump, or simply poured into the mist tank and mixed with make-up fluids. When utilized in air mist drilling, F-450 is typically applied at concentrations ranging from 0.1% to 0.5% (0.5 to 2 gallons/10 barrels). F-450 should be applied to stable or stiff foam systems at a typical concentration of 0.75% to 2% (3 to 8 gallons/10 barrels). All concentrations are based on fluid volumes only. Use concentrations vary depending on well depth, brine concentration, fluid influx, bottom hole temperatures and bit penetration rates.

When compressed air is utilized in the development of foam, the use of DrillCor 300 Series corrosion inhibitors is recommended to protect the drill pipe from oxygen induced corrosion. DrillCor 300 Series corrosion inhibitors have been specially developed to be compatible with F-450, while providing maximum corrosion control.

SHIPPING AND HANDLING

DrillFoam F-450, drilling foamer, is available in 5 gallon plastic pails, 55 gallon drums and bulk tank wagons. As with any industrial chemical, avoid prolonged contact with skin. In case of skin or eye contact, flush the exposed area with copious amounts of water. A material safety data sheet outlining proper handling of this product is available upon request, or will be forwarded upon the purchase of F-450.

POE-0192

The information in this bulletin is believed to be accurate, but all recommendations are made without warranty, since the conditions of use are beyond Bachman Services control. The listed properties are illustrative only, and not product specifications. Bachman Services disclaims any liability in connection with the use of the information, and does not warrant against infringement by reason of the use of any of its products in combination with other materials or in any process.

1 HMIS HEALTH
 1 HMIS FLAMMABILITY
 0 HMIS REACTIVITY
 B HMIS PERSONAL PROTEC

 SECTION I - IDENTIFICATION

MANUFACTURER'S NAME..... BACHMAN DRILLING &
 PRODUCTION SPECIALTIES
 P.O. BOX 96265
 OKLAHOMA CITY OK 73143
 PHONE NUMBER..... (405)677-8298
 EMERGENCY PHONE NUMBER... (800)732-9876
 EFFECTIVE DATE..... February 15, 1993
 TRADE NAME..... F-450 Foaming Agent
 CHEMICAL FAMILY..... Surfactants
 CAS NUMBER..... Blend
 CHEMICAL FORMULA..... Confidential

 SECTION II - HAZARDOUS INGREDIENTS

HAZARDOUS COMPONENTS	TLV (Units)	PROD. CAS
Propyleneglycol	< 10% No Values Established	ND
Monotertiary Butylother		

 SECTION III - PHYSICAL DATA

BOILING Point(F)..... 220 F
 FREEZING POINT (F)..... ND
 VAPOR PRESSURE (mm Hg)... 4.7 mm Hg @ 25 C
 VAPOR DENSITY (Air=1).... > 1.0
 SOLUBILITY IN H2O..... SOLUBLE
 APPEARANCE/ODOR..... LIGHT AMBER SOLUTION. Surfactant Odor
 SPECIFIC GRAVITY (H2O=1). Est. 1.02
 PH..... 8.5

 SECTION IV - FIRE AND EXPLOSION HAZARD DATA

FLASH POINT..... 135 F
 LOWER FLAME LIMIT..... N/A
 HIGHER FLAME LIMIT..... N/A
 EXTINGUISH MEDIA..... Dry Powder, Carbon Dioxide (CO2). "Alcohol Foam"
 UNUSUAL FIRE HAZARD..... NONE

 SECTION V - HEALTH HAZARD DATA

THRESHOLD LIMIT VALUE... NOT ESTABLISHED

F-450 Foaming Agent

HEALTH HAZARDS ACUTE: Ingestion of liquid may cause gastrointes
 distress, irritation, and possibly nausea. Liqu
 may be irritating to skin and eyes.

HEALTH HAZARDS ACUTE: Ingestion of liquid may cause gastrointestinal distress, irritation, and possibly nausea. Liquid may be irritating to skin and eyes.
 CHRONIC: Unknown

CARCINOGENICITY NO
 NTP? NO
 IARC MONOGRAPHS? NO
 OSHA REGULATIONS NO

OVER EXPOSURE EFFECTS..... Skin irritation develops slowly after contact. Eye irritation develops immediately upon contact. Signs of inhalation overexposure: Irritation of respiratory tract.

FIRST AID PROCEDURES..... In case of eye contact, flush immediately with plenty of water for at least 15 minutes and get medical attention; for skin, wash thoroughly with soap and water. Inhalation: Remove victim to fresh air and, if needed, immediately begin artificial respiration. Give oxygen if breathing is labored. Get emergency medical help. Contact physician immediately. If swallowed, induce vomiting immediately by giving 1-2 glasses of water and sticking finger down throat. Never give anything by mouth to an unconscious person.

 SECTION VI - REACTIVITY DATA

CHEMICAL STABILITY..... Stable
 CONDITIONS TO AVOID..... None
 INCOMPATIBLE MATERIALS... Oxidizers or oxidizing materials.
 DECOMPOSITION PRODUCTS... From fire: Smoke, Carbon Dioxide, Carbon Monoxide, Oxides of Nitrogen.
 HAZARDOUS POLYMERIZATION. Will not occur.
 POLYMERIZATION AVOID..... None

 SECTION VII - SPILL OR LEAK PROCEDURE

FOR SPILL Soak up small spills with absorbent media. For large spills, contain with dikes, pick up with a vacuum truck. Notify proper local, state and federal agencies.
 WASTE DISPOSAL METHOD.... Follow applicable local, state and federal regulations.

 SECTION VIII - SPECIAL PROTECTION

RESPIRATORY PROTECTION... None normally required
 VENTILATION..... Recommended.
 MECHANICAL EXHAUST..... Required in closed areas
 LOCAL EXHAUST..... Required in closed areas
 PROTECTIVE GLOVES..... NIOSH approved chemical resistant gloves suitable for materials shown in Section II.
 EYE PROTECTION..... Use chemical goggles or full face shield.
 OTHER PROTECTIVE EQUIPMENT..... Not normally needed.

SECTION IX - SPECIAL HANDLING

HANDLING AND STORAGE..... Store away from oxidizers or materials bearing a yellow "DOT" label.

PRECAUTIONARY MEASURES... Avoid prolonged or repeated contact with skin. Avoid prolonged or repeated contact with skin.

HAZARD CLASS..... Drums: Not Regulated, Bulk: Combustible Liquid

DOT SHIPPING NAME..... F-450 Foaming Agent, Contains Propylene Glycol Monotertiary Butylether

REPORTABLE QUANTITY (RQ). None

UN NUMBER..... None

NA #..... NA-1993

PACKAGING SIZE..... Pails, drums and bulk

SECTION X - REGULATORY

EPA ACUTE..... NO

EPA CHRONIC..... NO

EPA IGNITABILITY..... NO

EPA REACTIVITY..... NO

EPA SUDDEN RELEASE OF PRESSURE..... NO

CERCLA RQ VALUE..... NONE

NA TPC..... NONE

CERCLA RQ..... NO

SECTION 313..... NO

EPA HAZARD WASTE #..... Unknown

CLEANAIR..... NO

CLEAN WATER..... NO

SOCT NOTES NA-NOT APPLICABLE NO-NO DATA AVAILABLE

PREPARED BY..... Glen White, S.I.S., 817-560-4611

REVISED DATE..... February 15, 1993

THIS PRODUCT'S SAFETY INFORMATION IS PROVIDED TO ASSIST OUR CUSTOMERS IN ASSESSING COMPLIANCE WITH HEALTH, SAFETY AND ENVIRONMENTAL REGULATIONS. THE INFORMATION CONTAINED HEREIN IS BASED ON DATA AVAILABLE TO US AND IS BELIEVED TO BE ACCURATE, ALTHOUGH NO GUARANTEE OR WARRANTY IS PROVIDED BY THE COMPANY IN THIS RESPECT. SINCE THE USE OF THIS PRODUCT IS WITHIN THE EXCLUSIVE CONTROL OF THE USER, IT IS THE USER'S OBLIGATION TO DETERMINE THE CONDITIONS OF SAFE USE OF THIS PRODUCT. SUCH CONDITIONS SHOULD COMPLY WITH ALL FEDERAL REGULATIONS CONCERNING THE PRODUCT.

FILED

JAN 20 1995

SECRETARY, BOARD OF
OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS & MINING

DEPARTMENT OF NATURAL RESOURCES

STATE OF UTAH

IN THE MATTER OF THE APPEAL	:	SUNNYSIDE COAL COMPANY'S AND
OF FACT OF VIOLATION FOR	:	SUNNYSIDE COGENERATION
VIOLATION NO. C95-32-1-1,	:	ASSOCIATES' (1) PETITION FOR
SUNNYSIDE COAL COMPANY,	:	FORMAL HEARING AND (2)
SUNNYSIDE MINE, ACT/007/007,	:	PETITION FOR TEMPORARY RELIEF
CARBON COUNTY, UTAH	:	<i>Docket No. 95-002</i>
	:	CAUSE NO. ACT/007/007

Pursuant to Utah Code Ann. § 40-10-22 and Utah Code Ann. § 40-10-14(4)(a)(b) and (c), Applicant, Sunnyside Coal Company ("SCC") and Sunnyside Cogeneration Associates ("SCA"), by and through their respective counsel of record, hereby petitions the Board of Oil, Gas & Mining ("Board") for (1) formal hearing to review the fact of violation and (2) for temporary relief pending review of the Division of Oil, Gas & Mining's ("Division's") Cessation Order No. C95-32-1-1 ("CO"), attached hereto as Exhibit "A." The CO was issued on January 19, 1995, to SCC and SCA due to the alleged failure of SCC and SCA to "minimize disturbance to the prevailing hydrologic balance in the permit and associated off-site areas." The CO requires the immediate cessation of "deposition of foam into Grassy Trail Creek and/or any other off-site areas." For the reasons set forth herein, SCC and SCA request the Board to grant immediate temporary relief.

FACTS

1. The CO was issued to SCC and SCA by Henry Sauer, Division Inspector, on January 19, 1995, for alleged violations of Utah Code Ann. § 40-10-18(2)(i) and R645-301-750.
2. The CO was issued to SCC as permittee of the Sunnyside Mine Permit ACT/007/007.
3. The CO was issued to SCC for activities being conducted by SCA, including the drilling of a culinary water well within the permit area.
4. Discharge from SCA's culinary water well is piped across the permit area and is discharged at an approved discharge point under UPDES No. UT0024759.
5. The Utah Department of Environmental Quality ("DEQ") regulates SCA's discharges under UPDES No. UT0024759 and has taken enforcement action against SCA.
6. The Division required immediate cessation of deposition of foam into Grassy Trail Creek and/or any other off-site area.
7. In response to the CO, SCC sent a letter dated January 19, 1995, to counsel for SCA instructing SCA to "suspend drilling activities until measures can be taken to insure that no future discharges from the well will violate the water quality provisions of the permit." January 19, 1995, letter attached hereto as "Exhibit B."
8. SCA has responded indicating that: (1) cessation of drilling activities will result in irreparable harm in that the well may be lost; (2) the well drilling activities will be completed within five (5) days from January 19, 1995; and (3) the foam does not cause significant imminent environmental harm.

9. In the event that the well is lost due to cessation of drilling activities, harm will be caused to SCA, SCC and the Division's secured interest in the water and water well which currently secures the reclamation liability for ACT/007/007.

I.

PETITION FOR BOARD REVIEW AND FORMAL HEARING

SCC hereby petitions the Board for review and formal hearing of this matter. SCC challenges the fact of violation of the CO on the basis that the discharge is currently regulated by DEQ under UPDES No. UT0024759 and the Division lacks jurisdiction to issue the CO. In the alternative, if the violation is appropriately issued by the Division, no significant imminent environmental harm exists sufficient to support issuance of the CO.

II.

REQUEST FOR TEMPORARY STAY

SCC and SCA request a temporary stay in enforcement under the CO. SCC and SCA meet the requirements for temporary stay pursuant to Utah Code Ann. § 40-10-22(3)(c) and § 40-10-14(4) as follows:

1. Notice Under § 40-10-14(4)(a).

The Division has been notified by telephone regarding SCC's intent to seek a temporary stay and has been served with this petition. Therefore, the Division has been provided with an opportunity to be heard on this request for temporary relief as set forth at Utah Code Ann. § 40-10-14(4)(a).

2. **SCC Will Prevail on the Merits Pursuant to Utah Code Ann. § 40-10-14(4)(b).**

There is substantial likelihood that SCC will prevail on the merits and the Board will vacate the fact of violation.

a. **UPDES Permit No. UT0024759.**

The discharge of foam into the Grassy Trail Creek is regulated by the DEQ under UPDES Permit No. UT0024759. Under the UPDES permit, SCA has taken significant measures to abate discharge of foam, including construction of sedimentation control ponds, installation of skimmers and installation of silt fences. The Division action is duplicative of DEQ and the Division lacks jurisdiction to issue the CO.

b. **No Significant Imminent Environmental Harm.**

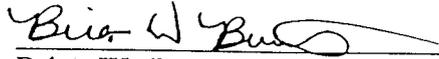
The foam cited by the CO does not create significant imminent harm to the environment. The Environmental Protection Agency ("EPA") has approved use of the foam for drinking water wells. Letter from EPA attached as Exhibit "C." Water quality samples establish no significant imminent environmental harm. Letter from DEQ attached as Exhibit "D."

3. **No Significant Imminent Environmental Harm.**

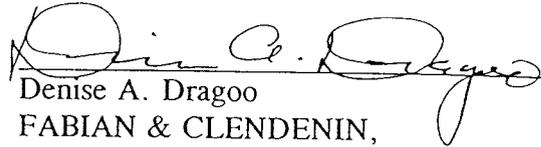
As set forth at 2b. above, the condition cited by the CO does not create significant imminent environmental harm.

Therefore, for the above reasons, SCC and SCA request a formal hearing before the Board regarding the fact of violation of the CO and respectfully requests that the Board stay abatement action and enforcement proceedings pending administrative review and a final determination of this matter.

RESPECTFULLY SUBMITTED this 20th day of January, 1995.



Brian W. Burnett
CALLISTER, NEBEKER & McCULLOUGH
10 East South Temple, Suite 800
Salt Lake City, Utah 84133
Attorneys for Sunnyside
Cogeneration Associates



Denise A. Dragoo
FABIAN & CLENDENIN,
a Professional Corporation
215 South State Street, 12th Floor
Salt Lake City, Utah 84151
Attorneys for Sunnyside Coal Company

CERTIFICATE OF SERVICE

We hereby certify that on this 20th day of January, 1995, we caused to be hand delivered a true and correct copy of the foregoing SUNNYSIDE COAL COMPANY'S and SUNNYSIDE COGENERATION ASSOCIATES' (1) PETITION FOR FORMAL HEARING AND (2) PETITION FOR TEMPORARY RELIEF to:

Jan Brown, Docket Clerk
Board of Oil, Gas & Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

James M. Carter, Director
Utah Division of Oil, Gas & Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203



EXHIBIT A



STATE OF UTAH
NATURAL RESOURCES
Division of Oil, Gas & Mining

3 Trifid Center - Suite 360 - Salt Lake City, UT 84180-1203 • 801-538-6340

Page 1 of 2

NO. C 95-32-1-1

cessation order

To the following Permittee or Operator:

Name SUNNYSIDE COAL COMPANY

Mine SUNNYSIDE COAL MINE Surface Underground Other

County CARBON State UTAH Telephone (801) 888-4421

Mailing Address P.O. BOX 99, STATE HIGHWAY 123, SUNNYSIDE, UTAH 84539

State Permit No. ACT/007/007

Ownership Category State Federal Fee Mixed

Date of Inspection January 10 and 19 19 94

Time of Inspection 1/19; 11:00 a.m. p.m. to 1/19 a.m. p.m.

Operator Name (other than Permittee) _____

Mailing Address _____

Under authority of the Utah Coal Mining & Reclamation Act, Section 40-10-1 et seq., Utah Code Annotated, 1953, the undersigned authorized representative of the Division of Oil, Gas & Mining has conducted an inspection of above mine on above date and has found that a Cessation Order must be issued with respect to each of the conditions, practices or violations listed in the attachment(s). This order constitutes a separate Cessation Order for each condition, practice or violation listed.

In accordance with Section 40-10-22, Utah Code Annotated, you are ordered to cease immediately the operations described in the attachment(s) and to perform the affirmative obligations described in the attachment(s) within the designated time for abatement. Reclamation operations not directly the subject of this order shall continue while this order is in effect. You are responsible for doing all work in a safe and workmanlike manner.

The undersigned representative finds that this order does does not require cessation of mining expressly or in practical effect. For this purpose, "mining" means extracting coal from the earth or a waste pile, and transporting it within or from the mine site.

This order shall remain in effect until it expires as provided on reverse side of this form, or is modified, terminated or vacated by written notice of an authorized representative of the Division of Oil, Gas & Mining.

Date of service/mailing January 19, 1994

Time of service/mailing 3:25 a.m. p.m.

Robert Buehler
Permittee/Operator representative

President

Signature _____

Henry Sauer
Division of Oil, Gas & Mining representative

Senior Reclamation Soils Specialist
Title

Signature _____

#32
Identification Number

SEE REVERSE SIDE

WRITE DOGM YELLOW OPERATOR PINK OGM GOLDENROD NOV FILE

DOGMCO-1

an equal opportunity employer

Rev. 8/92

1 1 1

01/19/1995 15:48

FROM SSC-UTRM 8818882022

Handwritten notes:
A.C. cessation of mining
into Gold Trail

FROM SSC-UTAH 0018882022

1.19.1995 15:13

P. 1



UTAH
NATURAL RESOURCES
DIVISION

Page 2 of 2

CESSATION ORDER NO. C 95-32-1-1

Violation No. 1 of 1

Nature of condition, practice or violation

Failure to minimize disturbance to the prevailing hydrologic balance in the permit and associated off-site areas.

Provisions of act, regulations or permit violated

Utah Code Annotated (U.A.C.) 1953 et. seq. 40-10-18(2)(1)
R645-301-750

Check appropriate box

- Condition, practice or violation is creating an imminent danger to health or safety of the public.
- Permittee/Operator is/has been conducting mining activities without a permit.
- Condition, practice or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- Permittee or Operator has failed to abate Violation(s) No. _____ Included in Notice of Violation No. N. _____ within time for abatement originally fixed or subsequently extended.

Operation(s) to be ceased immediately

Deposition of foam and or foam into Grassy Trail Creek and or any other off site area

Affirmative obligation(s) and abatement time (if applicable)

None

WHITE-DOGM YELLOW-OSM PINK-PERMITTEE/OPERATOR GOLDENROD-NOV FILE

EXHIBIT B

SUNNYSIDE COAL COMPANY

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

January 19, 1995

Brian Burnett, Esq.
Callister, Nebeker & McCullough
Suite 800 Kennecott Building
Salt Lake City, UT 84133

Fax: (801) 364-9127

Dear Brian:

Per our conversation earlier this afternoon, DOGM has issued a CO to Sunnyside Coal for discharges from the water well being drilled by Sunnyside Cogen. As a result of this action by DOGM I must instruct you to suspend drilling activity until adequate measures can be taken to insure that no future discharges from the well will violate the water quality conditions of SCC's permit. I have directed Mr. Darrell Leonard to give similar directions to the appropriate people at the Sunnyside plant site.

I have discussed this CO with Mr. Lowell Braxton of DOGM and learned that it is DOGM's position that even though Sunnyside Cogen has its own discharge permit for the well, SCC cannot allow activities within its permit area which violate the terms and conditions of its permit.

I have attached a copy of the CO for your reference.

Sincerely,



Robert M. Burnham
President

cc: Darrell Leonard
Denise Dragoo, Fabian & Clendenin

EXHIBIT C

SUNNYSIDE COGENERATION ASSOCIATES

POST OFFICE BOX 58087
SALT LAKE CITY, UTAH 84158-0087

October 24, 1994

Mr. Mike Herkimer
Division of Water Quality
288 North 1460 West
PO Box 144870
Salt Lake City, UT 84114-4870
Phone: (801) 538-6146 Fax: (801) 538-6016

RE: SCA Deep Water Well - Water Sampling Results EC450593

Dear Mike,

Jay Grimshaw of Sierra Drilling, Inc. has resumed drilling the deep production water well approximately five miles north of Sunnyside in Carbon County. This well is intended for use by Sunnyside Cogeneration Associates (SCA).

Several straw bale dikes have been installed in the Water Canyon Creek bed between the well and Grassy Trail Creek. SCA has now constructed three sedimentation ponds in series (total capacity estimated at approximately 2,000-3,000 cubic yards) to contain the drilling fluids and sediments. Discharge to the Water Canyon Creek has not occurred since September 30, 1994.

Water samples were taken by Jim Comas (EWP) on September 27, 1994 at the weir discharge point from the first pond. The analysis of those samples (see attachment) indicated the following:

Total Suspended Solids	115 mg/l
Total Dissolved Solids	600 mg/l
Total Petroleum Hydrocarbons	Not Detected
Volatiles as listed	Not Detected

Although the total suspended solids showed higher than desired, it is believed that the straw bales in the Water Canyon Creek should have filtered the discharge prior to entering Grassy Trail Creek.

It is our understanding that additional samples were taken by the Division of Water Quality on September 30, 1994. If it is possible, please provide SCA with a copy of the analysis results so that we can be better prepared to protect against contaminants, if any, to Grassy Trail Creek.

Mr. Mike Herkimer

October 24, 1994

Page Two

SCA has attempted to reduce the potential for discharge prior to the finalization of the UPDES permit which should complete the public notice period on November 2, 1994. In the event that discharge occurs again, in spite of the added pond capacity, SCA will take additional samples to determine if contaminants are being discharged. The new ponds will help to reduce the potential for discharge of suspended solids and assist in meeting the parameter limits proposed in the UPDES permit.

If you have any questions, feel free to call at (801) 261-0090.

Sincerely,

 FOR
David R. Pearce

Authorized Member, Management Committee


Scott Carlson
Engineer, EWP

cc: Brian Burnett, CNM
Alane E. Boyd, EWP

EXHIBIT D

SUNNYSIDE COGENERATION ASSOCIATES

POST OFFICE BOX 58087
SALT LAKE CITY, UTAH 84158-0087

November 15, 1994

Mr. Mike Herkimer
Division of Water Quality
288 North 1460 West
PO Box 144870
Salt Lake City, UT 84114-4870
Phone: (801) 538-6146 Fax: (801) 538-6016

RE: SCA Deep Water Well - Water Sampling Results EC450593

Dear Mike,

This letter is in regards to discharge from the deep production water well approximately five miles north of Sunnyside in Carbon County intended for use by Sunnyside Cogeneration Associates (SCA). SCA constructed three sedimentation ponds in series (total capacity estimated at approximately 2,000-3,000 cubic yards) to contain the drilling fluids and sediments. Several straw bale dikes were also installed in the Water Canyon Creek bed between the well and Grassy Trail Creek. Nonetheless, discharge to the Water Canyon Creek occurred between the evening of October 24 and the evening of October 26, and between the morning of November 2, and mid-day of November 3, 1994.

Water samples were taken by Jim Comas (EWP) on October 25 and 26, 1994 at the weir discharge point from the third sediment pond. The analysis of those samples is attached. It is our understanding that additional samples were taken by the Division of Water Quality on November 2, 1994. If it is possible, please provide SCA with a copy of the analysis results so that we can be better prepared to protect against potential contaminants to Grassy Trail Creek.

We also understand that the UPDES permit modification for discharge from this well has been approved. SCA will begin sampling and submitting the Discharge Monitoring Reports required for the new points #1 and #2 which are associated with this well.

If you have any questions, feel free to call at (801) 261-0090.

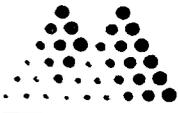
Sincerely,


FOR
David R. Pearce

Authorized Member, Management Committee


Scott Carlson
Engineer, EWP

cc: Brian Burnett, CNM
Alanc E. Boyd, EWP



Mountain States Analytical

November 10, 1994

Mr. Scott Carlson
Eckhoff, Watson & Preator Engineering
1121 East 3900 South
Suite C100
Salt Lake City, UT 84124

RECEIVED

NOV 17 1994

ECKHOFF, WATSON & PREATOR
ENGINEERING

Reference:

Project: Sunnyside-Production Well
Project No.: EC450693
MSAI Group: 6407

Dear Mr. Carlson:

Enclosed are the analytical results for your project referenced above. The following samples are included in the report.

West Sediment Pond #1

West Sediment Pond #2

All holding times were met for the tests performed on these samples.

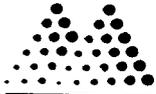
If the report is acceptable, please approve the enclosed invoice and forward it for payment.

Thank you for selecting Mountain States Analytical, Inc. to serve as your analytical laboratory on this project. If you have any questions concerning these results, please feel free to contact me at any time.

We look forward to working with you on future projects.

With Regards,

Rolf E. Larsen
Project Manager



Mountain States Analytical

The Quality Solution

Eckhoff, Watson & Preator Engineering
1121 East 3900 South
Suite C100
Salt Lake City, UT 84124

Attn: Mr. Scott Carlson
Project: Sunnyside-Production Well

Sample ID: West Sediment Pond #1
Matrix: Waste Water

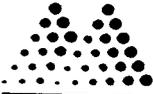
MSAI Sample: 26141
MSAI Group: 6407
Date Reported: 11/01/94
Discard Date: 12/01/94
Date Submitted: 10/28/94
Date Sampled: 10/25/94
Collected by: JC
Purchase Order:
Project No.: EC450693

Test	Analysis	Results as Received	Units	Limit of Quantitation
7243	Aluminum by ICP Method: SW-846 6010A	0.43	mg/l	0.20
7254	Iron by ICP Method: SW-846 6010A	0.66	mg/l	0.10
7258	Manganese by ICP Method: SW-846 6010A	ND	mg/l	0.02
0216	Hardness as CaCO3 - Titrimetric Method: EPA 130.2	312	mg/l	5
0273	Carbon, Total Organic (TOC) Method: EPA 415.1	283	mg/l	0.5
4001	Chemical Oxygen Demand Method: EPA 410.1	1,100	mg/l	20
5227	Total Phosphorus Method: EPA 365.3	0.03	mg/l	0.02
1554	Oil & Grease/TPH Method: EPA 413.2/418.1			
	Oil & Grease	1.3	mg/l	1.0
	Total petroleum hydrocarbons	ND	mg/l	1.0

ND - Not detected at the limit of quantitation

Respectfully Submitted,
Reviewed and Approved by:


Rolf E. Larsen
Project Manager



Mountain States Analytical

The Quality Solution

Eckhoff, Watson & Preator Engineering
1121 East 3900 South
Suite C100
Salt Lake City, UT 84124

Attn: Mr. Scott Carlson
Project: Sunnyside-Production Well

Sample ID: West Sediment Pond #2
Matrix: Waste Water

MSAI Sample: 26142
MSAI Group: 6407
Date Reported: 11/01/94
Discard Date: 12/01/94
Date Submitted: 10/28/94
Date Sampled: 10/26/94
Collected by: JC
Purchase Order:
Project No.: EC450693

Test	Analysis	Results as Received	Units	Limit of Quantitation
0201	Alkalinity as CaCO ₃ (pH 4.5) Method: EPA 310.1			
	Bicarbonate	322	mg/l	1
	Carbonate	ND	mg/l	1
	Hydroxide	ND	mg/l	1
0206	Solids, Total Suspended (TSS) Method: EPA 160.2	60	mg/l	4
0212	Solids, Total Dissolved Method: EPA 160.1	580	mg/l	10
0235	Biochemical Oxygen Demand, Total Method: EPA 405.1	> 145	mg/l	2
1125	Sulfate, Turbidimetric Method: EPA 375.4	146	mg/l	2

ND - Not detected at the limit of quantitation

Respectfully Submitted,
Reviewed and Approved by:

Rolf E. Larsen
Project Manager

DRAFT

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

—oo0oo—

IN THE MATTER OF THE APPEAL	:	ORDER GRANTING SUNNYSIDE
OF FACT OF VIOLATION FOR	:	COAL COMPANY'S AND
VIOLATION NO. C95-32-1-1,	:	SUNNYSIDE COGENERATION
SUNNYSIDE COAL COMPANY,	:	ASSOCIATES' PETITION FOR
SUNNYSIDE MIN, ACTA/007/007,	:	TEMPORARY RELIEF
CARBON COUNTY, UTAH	:	
	:	CAUSE NO. ACT/007/007

—oo0oo—

1. On January 20, 1995, Sunnyside Coal Company ("SCC") and Sunnyside Cogeneration Associates ("SCA") by and through their respective counsel of record petitioned the Board of Oil, Gas & Mining ("Board") for formal hearing and for temporary relief pending review of the Division of Oil, Gas & Mining ("Division") Cessation Order No. C95-32-1-1 ("CO").

2. The CO was issued on January 19, 1995 to SCC due to the alleged failure of SCC and SCA to "minimize disturbance to the prevailing hydrological balance in the permit and associated off-site areas." The CO required immediate cessation of "deposition of foam into Grassy Trail Creek and/or any other off-site areas."

3. At 2:30 p.m. on Friday, January 20, 1995, a hearing was held by conference call with Thomas A. Mitchell representing the Division, Denise A. Dragoo representing SCC, Brian W. Burnett representing SCA and Thomas B. Faddies for the Board.

DRAFT

4. Neither party at the telephonic hearing presented testimony through witnesses or affidavit. Because of the absence of evidence, the Board accepted proffers of evidence from counsel for SCC and SCA. The evidence proffered was as follows:

a. The well is expected to be completed by Tuesday, January 24, 1995; *Has this been accomplished?*

b. All possible technical resources are being used to reduce excess drill fluid effluent; *No this is incorrect in my opinion*

i. No fluids are presently escaping sediment and decant structures except at the point designated for SCC's UPDS discharge; *Fluids currently being @ from*

ii. All fluids discharged at the UPDS discharge point are captured and held at SCC's lined pond; and *Permit No. UT.0024754 Outfall # 002*

iii. The drilling fluid used by SCC's drilling contractor does not present a source of environmental harm because the fluid is a non-petroleum product and consists solely of inert polymers. *Outfall # feeds into the piping system for 002#*
Deposition of foam suspended solids and sediment in an of the middle are an impact to the subsisting hydrologic balance.

NOW, THEREFORE, based upon information received at the hearing at 3:00

p.m. on Friday January 20, 1995, the Board hereby grants the following relief:

1. Temporary relief from the CO No. C95-32-1-1 issued on January 10, 1995, is granted until Wednesday, January 25, 1995.

2. SCA shall use all efforts possible to minimize any impact the well-drilling activity has on the environment, including the limitation of foam released at Grassy *No!! what measure have been taken to this end??*

Trail Creek. These efforts shall include, but not be limited to, increasing the capacity

T.M. wants knowledgeable party as of yesterday 1/23/95 (ie Peter Hers)
LFB: Doesn't want to allocate resources.

DRAFT

ask Peter Hess what he observed on Jan. 23, 1995
Decant system remain at the same overflow point? did not go to the drill rig.
what skimming equipment (snow fences??) silt fence houses instead silt fence

of sediment ponds used for impoundment of drilling fluids, reduction in the amount of drilling fluid effluent reporting to the ponds, changes to and increased efficiency of skimming equipment, and the application of the best available technology so as to reduce the amount of drilling fluid effluent generated.

3. SCA's project engineers are to oversee on a constant basis the drilling contractors to determine that the best technology is employed by SCA's drilling contractor.
4. No discharge of drilling fluids shall occur from the permit area except as allowed in conformance with SCA's UPDS permit.
5. SCA and SCC shall appear Wednesday, January 25, 1995, at the time of regularly scheduled Board hearing and provide competent testimony to the Board of Oil, Gas and Mining that this Temporary Relief Order is being complied with.
6. SCC and SCA, based upon the changes to their operations as represented to Board member Thomas B. Faddies at the telephonic hearing for temporary relief, will have a substantial likelihood of prevailing on the merits if these representations are full and complete, and when taken in conjunction with the terms of this Order, followed so as to employ the best technology available to minimize disturbances to the prevailing hydrological balance in the permit and associated off-site areas.

DRAFT

Based on the above, and subject to full hearing on the matter on Wednesday, January 25, 1995, this granting of temporary relief will not adversely effect public health or safety or environmental harm to the land, air or water resources. ^{Not}

DATED this ____ date of January, 1995.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

By: Thomas B. Faddies.

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing ORDER GRANTING TEMPORARY RELIEF in Cause No. ACT/007/007 to be mailed by Certified mail, postage prepaid, on the ____ day of January, 1994, to the following:

Denise A. Dragoo
Fabian & Clendenin
215 South State, Suite 1200
Salt Lake City, Utah 84111

Brian W. Burnett
Callister, Nebeker & McCullough
Suite 800 Kennecott Building
Salt Lake City, Utah 84133

Thomas A. Mitchell
Assistant Attorney General
#3 Triad, Suite 475
355 West North Temple
Salt Lake City, Utah 84180-1204

Attachment # 17

3:09

006

CALLISTER NEBEKER & McCULLOUGH

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 300 KENNECOTT BUILDING
SALT LAKE CITY, UTAH 84133
TELEPHONE 801-550-7500
FAX 801-364-9127

WAYNE L. BLACK, P.C.
FRED L. FURLINSON
RICHARD A. REBERER
LAWL H. STATER
TIMOTHY M. CALLISTER, SR.
(1904-1983)
BARRELL BLACK
(1487-1951)

JOHN H. CALLISTER
DARYL R. HOWE
L. S. MURPHY RUSH, JR.
FRED W. FINEBERG
BENJAMIN C. PLESHE
JOHN A. BECKETT ADI
JEFFREY N. CLAYTON
JAMES P. HOLBROOK
CHARLES W. BENNETT
W. MALDAN LLOYD
JAMES W. BLACK
M. HIRSHFELD KETTINGER
JEFFREY I. SHELDON
STEVEN E. T. EG
CRAIG F. McCULLOUGH
RANDALL D. BENSON
W. WILLIE COTTON

ALSO MEMBER ARIZONA BAR
ALSO MEMBER FLORIDA BAR
ALSO MEMBER MISSISSIPPI BAR
ALSO MEMBER CALIFORNIA BAR

December 9, 1994

TO CALL WRITER AIRFOY

VIA FACSIMILE

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

Re: Sunnyside Cogeneration Associates - Pipeline

Dear Mr. Burnham:

This letter is in response to your letter to Sunnyside Cogeneration Associates ("SCA") dated December 7, 1994 regarding SCA's construction of a pipeline in the canyon. A pipeline is currently being built in water canyon from the well drilling site associated with WRNUM 91-231. This pipeline is necessary for the drilling operation to continue.

As we discussed, the first well SCA drilled had problems including broken casing, etc. SCA plans to set a pump in the first well at approximately 750' and pump this well temporarily so as to dewater the second well that is being drilled approximately 50 feet away. Ironically, one of the problems is that the well intercepted too much water too soon for its successful completion. This pumping action should help in drilling the second well.

SCA has a contract to purchase WRNUM 91-231 from Sunnyside Coal Company ("SCC"). This purchase is dependant on the State Engineer approving the use of the water for the power plant. This condition has not yet occurred.

SCA leases the plant site from SCC. SCC has given SCA the right to use SCC's land in connection with the power plant so long as SCA minimizes the interference with your property. See Article II, Section

Robert M. Burnham
December 9, 1994
Page 2

2.1, Amendment to Land Lease Agreement. In addition, the lease allows for:

(b) The right to install, maintain, repair, replace and use a water line above or below ground and necessary appurtenances thereto to convey water for the industrial consumptive use into the Property from diversion points on the Creek in said Section 6 and/or from rights north of said mine main entrance.

Amendment to Land Lease Agreement dated December 28, 1987, Article II, Section 2.2.

The location of the pipeline is north of the mine main entrance. The pipeline is going in next to an existing road. I do not believe that SCA is interfering with your use of your property.

SCA has already indemnified SCC pursuant to Article VII, Section 7.2 of the Land Lease Agreement as follows:

Lessee shall protect, indemnify and hold harmless Lessor and its directors, officers, employees, agents and representatives against and from any and all loss, claims, actions or suits, including costs and attorney's fees, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction of property belonging to Lessor, Lessee, or others resulting from or attributable to the willful act or negligence of Lessee, its directors, officers, employees, agents or representatives.

SCA has placed \$600,000.00 in a bank account for the purchase of WRNUM 91-231 with SCC. You have a variety of contract obligations that you will breach if you attempt to stop construction of the pipeline. Because your actions would be in bad faith, you could be subject to sanctions of the court, in addition to paying for our attorney fees.

Basically, SCA is trying very hard to finish the well and close the purchase of WRNUM 91-231. We need your cooperation, not opposition.

You requested a legal description of the pipeline from the well to the SCA project. I have enclosed a draft legal description for your reference. I will keep you informed regarding the progress of the well.

Fax Cover Page

SUBJECT:

Brian Burnett

Here is our first draft for the water line easement. It is broken into two halves because the easement occurs in two townships. The township line crosses the waterline at about one half mile south west of the mine facility entrance.

Let me know if there are additional items that you would like to see in the formatting of the document.

Thanks,

Scott Carlson

To: Brian Burnett

From : Scott Carlson

For Information Call: 801-261-0090

At: EWP Engineering

Pages: 5

My Fax Number : 801-266-1671

**NORTH WATERLINE EASEMENT
SUNNYSIDE COAL COMPANY
11/1/84**

In Sections 17, 20, 29 and 32, Township 13 South Range 14 East, Salt Lake Base and Meridian:

An Easement for the purposes of building and maintaining a waterline, to be 60 feet in width, the centerline of which is described as follows:

BEGINNING at a point on the Whitmore Canyon road, said point being Easterly 692.53 feet on the Section line from the Southwest corner of Section 32, Township 13 South Range 14 East, Salt Lake Base and Meridian and Running thence:

North 18-13-18 West 112.50 feet; thence
 North 26-46-42 East 654.81 feet; thence
 North 40-05-35 East 234.93 feet; thence
 North 53-08-30 East 265.41 feet; thence
 North 62-18-08 East 94.88 feet; thence
 North 71-35-03 East 139.01 feet; thence
 North 75-56-07 East 526.28 feet; thence
 North 83-22-03 East 129.36 feet; thence
 North 81-32-47 East 277.71 feet; thence
 South 73-15-35 East 42.60 feet; thence
 North 46-43-18 East 55.35 feet; thence
 North 27-26-41 East 107.47 feet; thence
 North 15-02-18 East 439.20 feet; thence
 North 08-46-42 East 70.08 feet; thence
 North 28-47-38 East 20.00 feet; thence
 North 10-04-11 East 168.12 feet; thence
 North 01-53-31 East 84.44 feet; thence
 North 04-43-02 West 151.42 feet; thence
 North 49-32-03 West 51.70 feet; thence
 North 03-56-23 West 73.97 feet; thence
 North 07-54-46 West 150.12 feet; thence
 North 15-45-34 West 476.85 feet; thence
 North 02-56-27 West 146.46 feet; thence
 North 10-51-43 East 481.34 feet; thence
 North 04-54-04 East 214.76 feet; thence
 North 13-05-10 East 437.40 feet; thence
 North 15-14-10 East 685.26 feet; thence
 North 60-05-51 East 195.12 feet; thence
 North 08-49-46 East 601.82 feet; thence
 North 04-55-15 East 265.97 feet; thence (CONTINUED NEXT PAGE)

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NORTH WATERLINE EASEMENT
SUNNYSIDE COAL COMPANY 11/1/94
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North 17-15-18 East 617.33 feet; thence
North 29-21-48 East 88.57 feet; thence
North 17-32-31 East 597.44 feet; thence
North 17-06-35 East 321.81 feet; thence
North 10-20-07 East 420.84 feet; thence
North 05-28-45 West 463.50 feet; thence
North 00-42-48 West 242.65 feet; thence
North 05-32-21 East 166.59 feet; thence
North 00-34-40 East 354.34 feet; thence
North 06-48-09 West 551.14 feet; thence
North 14-06-39 West 307.55 feet; thence
North 37-44-17 West 397.30 feet; thence
North 40-41-13 West 244.68 feet to a point on a 296.68 foot
radius curve to the right, thence along the arc of said curve
248.07 feet (Chord bears 240.90 feet North 15-29-40 West);
thence

North 15-19-43 East 338.57 feet; thence
North 06-18-14 East 211.70 feet; thence
North 07-07-03 West 170.00 feet; thence
North 13-56-38 West 2335.94 feet; thence
North 35-29-43 West 59.80 feet; thence
North 56-03-05 West 467.30 feet; thence
North 62-08-42 West 441.37 feet; thence
North 66-34-29 West 145.15 feet; thence
North 57-56-45 West 323.67 feet; thence
North 65-15-22 West 202.58 feet; thence
North 37-44-54 West 367.11 feet; thence
North 10-55-45 East 794.84 feet; thence
North 18-59-03 East 386.65 feet; thence
North 27-48-16 East 350.53 feet; thence
North 24-08-42 East 145.30 feet; thence
North 29-42-38 East 369.02 feet; thence
North 34-48-26 East 322.27 feet; thence
North 36-21-05 East 282.01 feet; thence
North 42-21-45 East 186.25 feet; thence
North 39-19-49 East 63.54 feet; thence
North 29-01-33 East 129.10 feet; thence
North 22-13-59 East 141.49 feet; thence
North 27-25-01 East 71.39 feet; thence
North 32-11-43 East 79.33 feet; thence
North 21-09-35 East 171.65 feet; thence
North 26-59-13 East 500.29 feet; thence

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NORTH WATERLINE EASEMENT
SUNNYSIDE COAL COMPANY 11/1/94
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North 39-08-59 East 94.33 feet; thence
North 22-24-14 East 89.31 foot; thence
North 15-20-33 East 117.39 feet; thence
North 15-33-48 East 102.97 feet; thence
North 24-33-51 East 29.27 feet; thence
North 38-39-58 West 30.00 feet; thence
North 38-30-08 West 138.31 feet to a point of terminus.

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**SOUTH WATERLINE EASEMENT
SUNNYSIDE COAL COMPANY
11/1/94**

In Sections 6 and 6, Township 14 South Range 14 East, Salt Lake Base and Meridian

An Easement for the purposes of building and maintaining a waterline, to be 60 feet in width, the centerline of which is described as follows:

BEGINNING at a point on the Whitmore Canyon road, said point being Easterly 692.53 feet on the Section line from the Northwest corner of Section 5, Township 14 South Range 14 East, Salt Lake Base and Meridian and Running thence:

South 18-13-18 East 47.00 feet; thence
South 26-46-42 West 110.40 feet; thence
South 34-55-28 West 793.72 feet; thence
South 34-48-58 West 1188.57 feet; thence
South 45-39-45 West 158.62 feet; thence
South 59-00-38 West 106.08 feet; thence
South 65-22-49 West 362.91 feet; thence
South 68-40-21 West 351.00 feet; thence
South 70-21-23 West 574.49 feet; thence
South 74-04-38 West 548.67 feet; thence
South 80-02-38 West 426.24 feet; thence
South 23-57-44 West 155.07 feet; thence
South 42-23-28 West 225.11 feet; thence
South 40-26-25 West 366.19 feet; thence
South 39-45-42 West 554.93 feet; thence
South 40-57-37 West 43.94 feet; thence
South 66-57-54 West 50.00 feet; thence
South 20-18-34 East 50.00 feet; thence
South 66-57-54 West 50.00 feet; thence
South 40-57-37 West 147.70 feet to a point of terminus.