

0014



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

get

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)

INSPECTION REPORT

Partial: Complete: Exploration:

Inspection Date & Time: Date: March 23, 1995; Time: 10:00 am-5:35 pm; Date: March 24, 1995 Time: 8:00 am to 3:30 pm; Date: April 6, 1995 Time: 8:00 am to 3:00 pm

Date of Last Inspection: 12/21/94

Mine Name: Sunnyside Coal Mine County: Carbon Permit Number: ACT/007/007

Permittee and/or Operator's Name: Sunnyside Coal Company (SCC)

Business Address: PO Box 99, Sunnyside, Utah 84539

Type of Mining Activity: Underground Surface Prep. Plant Other

State Official(s): Henry Sauer,

Company Official(s): Jim Simborsky (SCC)

Federal Official(s): _____

Weather Conditions:

Existing Acreage: Permitted-14475 Disturbed-310 Regraded-0 Seeded-0 Bonded-310

Increased/Decreased: Permitted- Disturbed- Regraded- Seeded- Bonded-

Status: Exploration/ Active/ Inactive/ Temporary Cessation/ Bond Forfeiture

Reclamation (Phase I/ Phase II/ Final Bond Release/ Liability Year)

REVIEW OF PERMIT, PERFORMANCE STANDARDS & PERMIT CONDITION REQUIREMENTS

Instructions

1. Substantiate the elements on this inspection by checking the appropriate performance standard.
 - a. For complete inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check N/A.
 - b. For partial inspections check only the elements evaluated.
2. Document any noncompliance situation by referencing the NOV issued at the appropriate performance standard listed below.
3. Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
4. Provide a brief status report for all pending enforcement actions, permit conditions, Division Orders, and amendments.

| | EVALUATED | N/A | COMMENTS | NOV/ENF |
|--|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| 1. PERMITS, CHANGE, TRANSFER, RENEWAL, SALE | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. SIGNS AND MARKERS | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. TOPSOIL | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. HYDROLOGIC BALANCE: | | | | |
| a. DIVERSIONS | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b. SEDIMENT PONDS AND IMPOUNDMENTS | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c. OTHER SEDIMENT CONTROL MEASURES | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. WATER MONITORING | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e. EFFLUENT LIMITATIONS | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. EXPLOSIVES | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. DISPOSAL OF EXCESS SPOIL/FILLS/BENCHES | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. COAL MINE WASTE/REFUSE PILES/IMPOUNDMENTS | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. NONCOAL WASTE | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 9. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 10. SLIDES AND OTHER DAMAGE | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. CONTEMPORANEOUS RECLAMATION | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. BACKFILLING AND GRADING | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. REVEGETATION | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. SUBSIDENCE CONTROL | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 15. CESSATION OF OPERATIONS | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. ROADS: | | | | |
| a. CONSTRUCTION/MAINTENANCE/SURFACING | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. DRAINAGE CONTROLS | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. OTHER TRANSPORTATION FACILITIES | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. SUPPORT FACILITIES/UTILITY INSTALLATIONS | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 19. AVS CHECK (4th Quarter-April, May, June) _____ (date) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 20. AIR QUALITY PERMIT | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 21. BONDING & INSURANCE | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |



INSPECTION REPORT

(Continuation sheet)

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PERMIT NUMBER: ACT/007/007

DATE OF INSPECTION: _____

(Comments are Numbered to Correspond with Topics Listed Above)

GENERAL COMMENTS: The March Complete Inspection was conducted in two parts as noted above. Many issues which were identified at the beginning of the inspection were resolved prior to the termination of the inspection on April 6, 1995. These issues will be identified below. Demolition of mine facilities are proceeding. By all accounts the sale of Sunnyside Coal Company's property has been postponed. Drilling activities at WRNUM 91-231 have ceased. The contract driller was demobilizing equipment at the time of the inspection. Jim Comas representing Eckoff, Watson and Preator informed me that reclamation of the disturbance associated with the drilling of well WRNUM 91-231 would occur. The extent of reclamation planned is unknown.

1. PERMITS, CHANGE, TRANSFER, RENEWAL, SALE

The operator upon request presented right-of-way documentation for the drilling activities at WRNUM 91-231 and the appurtenant pipeline. According to the operator the Land Lease Agreement (March 30, 1987) as amended (December 28, 1987) between Kaiser Coal Corporation and Sunnyside Cogeneration Associates (enclosed) constitutes SCA's wright of entry.

The SCA has provided SCC with a certified map depicting the disturbance associated with WRNUM 91-231 and appurtenant pipeline (See ACT/007/007 File # 2 & #5).

4. HYDROLOGIC BALANCE:

a. DIVERSIONS

The inside road ditch for the access road to the Twin Shaft Fan requires cleaning.

b. SEDIMENT PONDS AND IMPOUNDMENTS

The fourth quarter impoundment inspections were reviewed. John S. Huefner P.E. License # 144842 certified that no hazardous conditions and/or signs of instability were observed.

d. WATER MONITORING

The DMR's for the fourth quarter of 1994 were reviewed. According to these documents no discharge from SCC's UPDES discharge outfalls occurred during the fourth quarter of 1994.

The fourth quarter of 1994 water monitoring reports were reviewed. The field notebook indicated that a former employee of SCC (Darrel Leonard) had taken water sample

INSPECTION REPORT

(Continuation sheet)

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for laboratory analysis at the following locations: GT-1; GT-2; WR-1 and WR-2. The laboratory analyses were transmitted by FAX to the Division's offices on April 11, 1995.

8. NONCOAL WASTE

Mr. Jim Simborski (SCC) informed me that Mr. George Harmand of Mountain States owns the NON-PCB (i.e. < 50 ppm PCB) transformers and has a contractor slated to drain the transformers.

Mr. Jim Simborski (SCC) informed me that Western Thermal removed the asbestos from around the plant boiler.

The following PCB contaminated transformers and one capacitor are stored within the Annex Building: Serial Number (SN) : 17910 ; C649339 ; D277255; C649336; 9791584; 73 09 2289; 73 09 2305; C863030. One 55-gallon drum containing two used transformers and dielectric fluid with greater than 500ppm PCB is stored in the Annex building. Two additional 55-gallon drums are stored in the Annex Building . These drums containing PCB contaminated concrete and rags. All of the PCB-equipment noted above is slated for disposal. The PCB-equipment is contained within an plastic lined curbed area. This holds true for the transformer (SN:C863030) stored adjacent to the Administration building. On April 6, 1995 personnel representing JBR Consultant Group Inc. were draining and removing the PCB-contaminated transformer located at the Outcrop Fan Portal Area.

The remaining used solvents and oils and unused products are slated for removal on April 7, 1995. The status of these liquids will be reported in the April 1995 inspection report.

The majority of the extraneous oil, solvent and grease containers have been collected from around the site and have been pile adjacent to what remains of the Wash Plant. These containers are slated for disposal in a state approved land fill.

According to JBR representatives the underground storage tanks adjacent to the wash plant will be pumped and flushed by Advanced Petroleum Recyclers on April 11, 1995. The tanks can not be removed until the removal plans are approved by the Division of Solid and Hazardous Waste.

9. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES

The channel bottom of Grassy Trail Creek below the water monitoring point GT-3 (below UPDES Permit No. 0024759, Outfall #002) was observed. The light gray sediments

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discharged in the drilling effluent was still evident. However the clean-up operation have substantially decrease the quantity. The coal-oil amalgam (noted in previous inspection reports) is evident on the submerged underside of the channel cobbles and boulders. Macroinvertebrates were absent on the cobbles and boulders observed. Immediately below UPDES Permit No. 0024759, Outfall #002 (approximately 150 yards) two beaver dams are evident. A profile of the accumulated sediment within the beaver ponds was excavated and observed. Stratification of the bottom sediments is evident. I observed the contaminants deposited in the bottom sediments during the longwall oil spills (1989), coal fine deposition and the most recent episode of drilling sediments.

The access road to WRNUM 91-231 crosses the Water Canyon Channel. The crossing is culverted. The stream channel has been disturbed immediately above and below the culvert. Mr. Mark Page representing the Division of Water Rights was on site on April 6, 1995. I asked Mr. Page if Sunnyside Cogeneration Associates (SCA) had received the appropriate stream alteration permits. He said that SCA had not been granted a stream alteration permit. He informed me that he has notified representatives of SCA of this fact and would be investigating the situation.

14. SUBSIDENCE CONTROL

The permittee has not submitted the Annual Subsidence Report for 1994.

18. SUPPORT FACILITIES/UTILITY INSTALLATIONS

The fan and fan housing at the Twin Shaft has been removed.

A gap in the protective fence surrounding the Whitmore Fan Intake Shaft was noted. Prior to the termination of the inspection the operator performed the required maintenance activities.

A gasoline tank being used by the demolition contractor was not adequately berm at the beginning of the inspection. Prior to the termination of the inspection the operator performed the required maintenance activities.

19. AVS CHECK

An AVS check was not conducted during this inspection.

21. BONDING & INSURANCE

Insurance documents were reviewed. The following information was noted: General Liability Insurance Policy # -DAG 0222295SCC; Effective Dates- 2/22/1995 through

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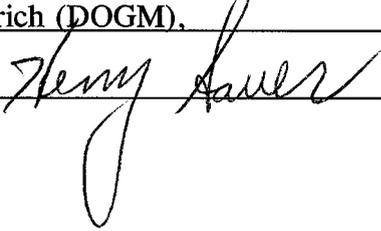
DATE OF INSPECTION: _____

2/22/1995 Automobile Liability Policy # CA 53545420; Certificate Holder United States Department of Justice, Office of Trust, c/o: Victor R. Graco, 721 19th Street, Suite 400, Denver Colorado, 80207.

Copy of this Report:

Mailed to: Donna Griffin (OSM), Robert Burnham(SCC),

Given to: Joe Helfrich (DOGM),

Inspector's Signature:  #32 Date: 4/7/95

SUNNYSIDE COAL COMPANY

Debtor in Possession

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

March 27, 1995

Mr. Henry Sauer
Department of Oil, Gas and Minerals
State of Utah Natural Resources
355 W. North Temple, Suite 350
Salt Lake City, UT 84180-1203

Re: ACT/007/007

Dear Henry:

Enclosed please find a copy of the Land Lease Agreement, dated March 30, 1987, and the Amendment to Land Lease, dated December 25, 1987, between Kaiser Coal Corp. and Sunnyside Cogeneration Associates. These are the agreements which give SCA their right-of-way for the deep well and pipeline. The pertinent sections are Article II, Sections 2.1 and 2.2(b).

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

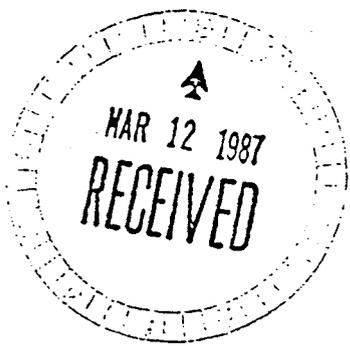
Sincerely,



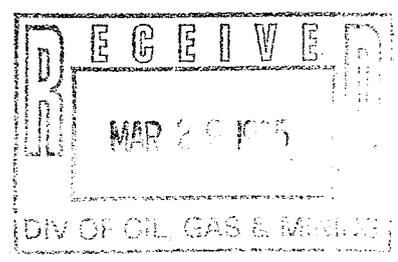
Robert M. Burnham
President

cc: Jim Semborski

ACT/007/0070
File # 2 and #5
This document must accompany the March, 1995 complete inspection report.
3/11/87
Hauer



LAND LEASE AGREEMENT
BETWEEN
KAISER COAL CORPORATION
and
SUNNYSIDE COGENERATION ASSOCIATES



March 11, 1987

LAND LEASE AGREEMENT

This Land Lease Agreement (the "Lease") is made and entered into as of the 30th day of March 1987, by and between KAISER COAL CORPORATION, a Corporation organized and existing under the laws of the State of Delaware, and having its principal office in Colorado Springs, Colorado ("Lessor"), and SUNNYSIDE COGENERATION ASSOCIATES, a Joint Venture organized and existing under the laws of the State of Utah, and having its principal office in Colorado Springs, Colorado ("Lessee").

WITNESSETH

WHEREAS, Lessee is developing a cogeneration project (the "Project") which will be located in Carbon County, Utah, and which will produce thermal energy for sale to Kaiser Coal Corporation of Sunnyside ("KCS"), a wholly owned subsidiary of Lessor, pursuant to an Agreement For The Purchase And Sale Of Thermal Energy (the "Thermal Energy Agreement"), and electricity for sale to Utah Power and Light Company ("UP&L"); and

WHEREAS, Lessee will purchase waste coal for use as a fuel in the Project from Kaiser Fuel Corporation ("KFC"), a wholly owned subsidiary of Lessor, pursuant to an Agreement For The Sale Of Waste Coal (the "Waste Coal Agreement"); and

WHEREAS, KCS has guaranteed KFC's performance under the Waste Coal Contract pursuant to a Guaranty Agreement (the "Guaranty"); and

WHEREAS, Lessor owns certain real property located in Carbon County, Utah, as more particularly described in Exhibit A (the "Property") and desires to lease the Property to Lessee; and

WHEREAS, Lessee desires to lease the Property from Lessor; and
WHEREAS, Lessor and Lessee mutually desire to enter into this Lease
to specify the terms and conditions for the use by Lessee of the Property,
NOW, THEREFORE, in consideration of the mutual obligations and
undertakings contained herein, Lessor and Lessee hereby agree as follows:

ARTICLE 1

REPRESENTATIONS AND WARRANTIES

1.1. Representations and Warranties of Lessor. Lessor hereby
represents and warrants to Lessee as follows:

A. Lessor is a corporation duly organized and existing in
good standing under the laws of the State of Delaware, and it is duly
qualified to do business in the State of Utah;

B. Lessor possesses all requisite power and authority to enter
into and perform this Lease and to carry out the transactions contemplated
herein;

C. Lessor's execution, delivery, and performance of this
Lease have been duly authorized by, or are in accordance with, its organic
instruments; this Lease has been duly executed and delivered for it by the
signatories so authorized; this Lease constitutes Lessor's legal, valid and
binding obligation; and Lessor's execution, delivery, and performance of
this Lease will not result in a breach or violation of, or constitute a default
under, any agreement, lease, or instrument to which it is a party or by
which it or its properties may be bound or affected;

D. No suit, action or arbitration, or legal, administrative or
other proceeding is pending or has been threatened against Lessor that
would affect the validity or enforceability of this Lease or the ability of

Lessor to fulfill its commitments hereunder, or that could result in any adverse change in the business or financial condition of Lessor.

E. Lessor has good and marketable title to the Property, and, except as expressly listed on Exhibit B, the Property is free and clear of all liens and other encumbrances.

1.2. Representations and Warranties of Lessee. Lessee hereby represents and warrants to Lessor as follows:

A.. Lessee is a joint venture duly organized and existing in good standing under the laws of the State of Utah and is duly qualified to do business in the State of Utah;

B. Lessee possesses all requisite power and authority to enter into and perform this Lease and to carry out the transactions contemplated herein;

C. Lessee's execution, delivery, and performance of this Lease have been duly authorized by, or are in accordance with, its organic instruments; this Lease has been duly executed and delivered for it by the signatories so authorized; this Lease constitutes its legal, valid, and binding obligation; and Lessee's execution, delivery and performance of this Lease will not result in a breach or violation of, or constitute a default under, any agreement, lease, or instrument to which it is a party or by which it or its properties may be bound or affected;

D. No suit, action or arbitration, or legal, administrative or other proceeding is pending or has been threatened against Lessee that would affect the validity or enforceability of this Lease or the ability of Lessee to fulfill its commitments hereunder, or that could result in any adverse change in the business or financial condition of Lessee.

ARTICLE II

DEMISED PROPERTY

Lessor hereby leases the Property to Lessee, and Lessee hereby leases the Property from Lessor, subject, however, to all existing liens and other encumbrances listed on Exhibit B. During the term of this Lease, Lessee, its employees and agents shall have unrestricted access and right to use the Property for the purposes described in Article V hereof, and shall also have the right to use the Lessor's land adjoining the Property where necessary in connection with such purposes, provided that the use of such adjoining land does not adversely affect Lessor's other activities.

ARTICLE III

RENT PAYMENT

3.1. During the term of this Lease, Lessee shall pay Lessor rent in accordance with this Article. Rental payments shall be made semi-annually, in arrears, on the last business day of June and December (the "Rental Payment Dates"), commencing on the first such day following the date hereof. A pro-rata adjustment of the rental payment shall be made at the time Lessee's obligation to pay rent commences, at any time that the amount of the annual rent hereunder is adjusted, and at the end of the term, to the extent that such commencement, adjustment or termination is not coincident with the commencement or termination of any such semiannual period.

3.2. Beginning on the effective date of this Lease and ending on the date the Project commences regular commercial operation (the "Commercial Operation Date"), the rent for the Property shall be one dollar (\$1.00) per year.

3.3. Beginning on the Commercial Operation Date, throughout the remainder of the Initial Term and any Renewal Term or Terms, the rent for the property shall be twelve thousand dollars (\$12,000) per year.

3.4. Any late payments shall bear interest at a rate which is two (2) percentage points above the prime rate as established by The Chase Manhattan Bank, N.A.

3.5. If KFC is in default under the Waste Coal Agreement, or if KCS is in default under the Thermal Energy Agreement or the Guaranty, the rent determined under this Article shall be reduced by the amount of any damages suffered by Lessee during the rental period as a result of such default.

ARTICLE IV

TERM

4.1. The Initial Term of this Lease shall commence on the date hereof and shall continue for thirty (30) years following the Commercial Operation Date unless earlier terminated pursuant to Article XIV.

4.2. After the Initial Term, this Lease shall automatically be renewed for successive five (5) year Renewal Terms unless Lessee gives Lessor written notice of its intent not to renew the Lease at least twelve (12) months before the expiration of the Initial Term or any Renewal Term.

4.3. Upon the termination of this Lease for any reason, including termination under Article XIV, Lessee shall (i) be allowed to enter the Property and remove the Project, (ii) leave the Property in a condition in which it has a fair market value which is no less than the fair market value which the Property would have had if the Project had never been built, and (iii) repair any damage to adjoining property used under the terms of

Article II which is due solely to Lessee's use thereof; provided, however, that Lessor and Lessee may mutually agree that Lessor will purchase the Project for its fair market value as of the date of termination of the Lease, or that Lessee will abandon the Project to Lessor, in which case, Lessee's obligations under this Paragraph shall be deemed to have been satisfied; and provided further that this Paragraph shall not apply to a termination pursuant to Section 14.4(B).

ARTICLE V

BUSINESS OR ENTERPRISE TO BE CONDUCTED

It is agreed that the Property will be used in connection with the generation, production, distribution and sale of thermal energy and electric power, and all activities in conjunction with or collateral thereto. The Lessee agrees that no other business will be conducted thereon without first obtaining the written consent of Lessor, which consent shall not be unreasonably withheld or delayed. Lessee shall operate the Project in compliance with any Federal, state or local laws, regulations or other requirements applicable to the Project.

ARTICLE VI

RIGHTS AND OBLIGATIONS OF LESSOR

Lessee shall, upon reasonable notice, and during normal business hours, permit Lessor and the agents and employees of Lessor to enter into and upon the Property for the purpose of inspecting the same. Any entry by Lessor and/or its agents and employees shall be at Lessor's sole risk, responsibility and expense. During any and all such entries, Lessor, its

agents and/or employees shall comply in all respects with all applicable laws and regulations as well as any directions and/or instructions of Lessee.

ARTICLE VII

OWNERSHIP, RISK OF LOSS AND INDEMNIFICATION

7.1. Risk of Loss. During the term of this Lease, Lessee shall be the sole and exclusive owner of the Project. Lessee shall be responsible for an shall bear the full risk of loss (i) with respect to any loss of or damage to the Property or to the Project; and (ii) with respect to any personal injury or loss of or damage to any other property arising out of the operation or use of the Project. The preceding sentence shall not apply to any loss, damage, action, claim, liability, cost, charge, expense or injury (i) arising out of the negligence or willful misconduct of the Lessor or the Lessor's officers, directors, employees, agents or invitees, or (ii) for which Lessor or any affiliate of Lessor has expressly assumed responsibility under any other agreement between Lessor or such affiliate and Lessee.

7.2. Indemnification.

A. By Lessee. 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 attorneys' 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.

B. By Lessor. Lessor shall protect, indemnify and hold harmless Lessee and its directors, officers, employees, agents and representatives against and from any and all loss, claims, actions or suits, including costs and attorneys' 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 Lessor, its directors, officers, employees, agents or representatives.

C. Notice and Participation. If any indemnified Party intends to seek indemnification under this Article from any indemnifying Party with respect to any action or claim, the indemnified Party shall give the indemnifying Party notice of such claim or action within fifteen (15) days of the commencement of, or actual knowledge by the indemnified Party of, such claim or action, and the indemnifying Party shall have no liability under this Article for any claim or action for which such notice is not provided. The indemnifying Party shall have the right, at its sole cost and expense, to participate in any such claim or action. The indemnified Party shall not compromise or settle any such claim or action without the prior consent of the indemnifying Party, which consent shall not be unreasonably withheld or delayed.

D. Survival of Obligation. The duty to indemnify under this Article will continue in full force and effect notwithstanding the expiration or termination of this Lease, with respect to any loss, liability, damage or other expense based on facts and conditions which occurred prior to such termination.

ARTICLE VIII

DAMAGE OR DESTRUCTION OF THE PROJECT

In the event the Project, or any portion thereof, is damaged or destroyed, Lessee, using the proceeds of any insurance maintained with respect to the Project, shall repair and replace the Project with due diligence in order to restore the Project to service as soon as possible; provided, however, that if Lessee determines, in its sole discretion, that such insurance proceeds are insufficient to effect such a restoration, Lessee shall have the option to retain any such proceeds and terminate this Lease, subject to the requirements of Section 4.3.

ARTICLE IX

CONDEMNATION

The Parties recognize the possibility that the Property or the Project, or any part thereof, may be condemned or appropriated during the term of this Lease. In the event that all or any portion of the Property or the Project is so condemned or appropriated, both Lessor and Lessee may participate in proceedings to recover compensation for such condemnation or appropriation of their respective interests, and the following provisions shall apply:

A. If the condemnation or appropriation does not (i) prevent either Party from fulfilling its responsibility under this Lease, or (ii) in Lessee's sole discretion, render the continued operation of the Project commercially impracticable, this Lease shall continue in full force and effect, and Lessor and Lessee shall share any and all awards and compensation arising from such condemnation or appropriation based on the values of their respective interests established in the condemnation proceeding, or, if no such values were established, based on the ratio of the fair

market values of the interests of Lessor and Lessee taken pursuant to such condemnation or appropriation.

B. If the condemnation or appropriation (i) prevents either Party from fulfilling its responsibilities under this Lease, or (ii) in Lessee's sole discretion, renders the continued operation of the Project commercially impracticable, this Lease shall terminate as of the date such condemnation or appropriation becomes effective, and Lessor and Lessee shall share in any and all awards and compensation arising from such condemnation or appropriation based on the values of their respective interests established in the condemnation proceeding, or, if no such values are established, based on the ratio of the fair market values of the interests of Lessor and Lessee taken pursuant to such condemnation or appropriation.

ARTICLE X

COVENANT AGAINST LIENS

10.1. If, because of any act or omission of Lessee, any lien, charge, or order for the payment of money is filed against any portion of the Property, Lessee shall, at its own cost and expense, cause the same to be discharged of record or bonded within ninety (90) days after written notice from Lessor to Lessee of the filing thereof unless Lessee contests the validity thereof in accordance with Section 10.5, and Lessee shall indemnify and save harmless Lessor against and from any costs, liabilities, suits, penalties, claims and demands, including attorneys' fees, arising therefrom.

10.2. If Lessee fails to cause any such lien, charge or order to be discharged of record or bonded within the aforesaid ninety (90) day period (unless Lessee contests the validity of such lien, charge or order as aforesaid), or if Lessee fails to satisfy any such lien, charge or order within

sixty (60) days after any judgment in favor of the holder thereof from which no further appeal can be taken, then Lessor shall have the right to cause the same to be discharged. All amounts paid by Lessor to cause any such lien, charge or order to be discharged shall constitute additional rent payable by Lessee to Lessor, or may be recovered from Lessee in an appropriate proceeding.

10.3. If, because of any act or omission of Lessor, any lien, charge, or order for the payment of money is filed against any portion of the Property or the Project, Lessor shall, at its own expense, cause the same to be discharged of record or bonded within ninety (90) days after written notice from Lessee to Lessor of the filing thereof, unless Lessor contests the validity thereof in accordance with Section 10.5, and Lessor shall indemnify and save harmless Lessee against and from any costs, liabilities, suits, penalties, claims, and demands, including attorneys' fees, arising therefrom.

10.4. If Lessor fails to cause any such lien, charge or order to be discharged or bonded within the aforesaid ninety (90) day period (unless Lessor contests the validity of such lien as aforesaid), or if Lessor fails to satisfy any such lien, charge or order within sixty (60) days after any judgment in favor of the holder thereof from which no further appeal can be taken, or if Lessee's quiet enjoyment of the Property is affected or threatened at any time as a result thereof, then Lessee shall have the right to cause the same to be discharged. All amounts paid by Lessee may be deducted from subsequent installments of the rent payable hereunder, or may be recovered from Lessor in an appropriate proceeding.

10.5. Either Party may contest, by appropriate proceedings, the amount, validity, or application of any imposition, legal requirement, or

any lien arising therefrom, provided that (i) such proceedings shall suspend the collection thereof, and (ii) no part of the Property or of any rent payment would be subject to loss, sale, or forfeiture before determination of any contest. Such Party will conduct all such contests in good faith and with due diligence and will, promptly after the determination of such contest, pay and discharge all amounts which shall be determined to be payable therein.

ARTICLE XI

QUIET ENJOYMENT

Upon due performance of the covenants and agreements to be performed by Lessee under this Lease, Lessor covenants that Lessee shall and may at all times peaceably and quietly have, hold and enjoy the Property during the term of this Lease. If the foregoing covenant of quiet enjoyment is breached, and/or Lessee is made a party to any legal proceedings affecting Lessee's right of possession, Lessor will reimburse Lessee for any reasonable attorneys' fees and other expenses incurred by Lessee in defending its rights under this Lease, and any such expenses may be applied by Lessee to rent due or to become due, or may be recovered from Lessor in an appropriate proceeding.

ARTICLE XII

NONSUBORDINATION TO FEE MORTGAGES

The Lessor represents and warrants that upon the execution and delivery of this Lease, and at all times during the term hereof, this Lease shall not be subordinate to any mortgage of the Lessor presently existing or hereafter created on the fee title to the Property.

ARTICLE XIII

ASSIGNMENT, SUBLEASE OR ENCUMBERANCE

13.1. Assignment or Sublease. Neither the Lessor nor the Lessee may assign or sublease any of its rights or obligations hereunder without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed) unless (i) such assignment or sublease is made to a parent or subsidiary company or to a successor by way of merger, consolidation or the acquisition of substantially all of the assets of such Party, or (ii) such assignment or sublease is reasonably determined by Lessee to be necessary to obtain or complete the financing or refinancing of the Project. In the event of an assignment or sublease, the assignee or sublessee shall expressly assume the obligations of such assigning or subleasing Party in writing, and the terms of this Lease shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Any assignment or sublease in violation of this Article shall be null and void.

13.2. Encumbrance. Lessee may encumber, by mortgage or deed of trust, or any other proper instrument, its leasehold interest and estate in the demised premises, together with all buildings and improvements placed by Lessee thereon, as security for any indebtedness of Lessee, including but not limited to the repayment obligation under Article 4 of the Power Sale Contract between Lessee and UP&L. The execution of any such mortgage, deed of trust, or other instrument; or the foreclosure thereof; or any sale thereunder, either by judicial proceedings or by virtue of any power reserved in such mortgage, deed of trust or other instrument; or any conveyance by Lessee to the holder of such indebtedness; or the exercise of any right, power, or privilege reserved in any mortgage, deed

of trust or other instrument, shall not be a violation of any of the terms or conditions hereof, or an assumption by the holder of such indebtedness personally of the obligations hereof. No such encumbrance, foreclosure, conveyance or exercise of right shall relieve Lessee from its liability or obligations hereunder. This Lease shall inure to the benefit of any successor owner of the Project pursuant to any such foreclosure, sale, conveyance, or exercise of right, and Lessor shall recognize any such successor as the Lessee under this Lease.

13.3. If Lessee shall encumber its leasehold interest and estate in the demised premises, Lessee or the holder of the indebtedness secured by such encumbrance shall give notice to Lessor of the existence thereof and the address of such holder, and Lessor shall mail or deliver to such holder, at such address, a duplicate copy of all notices in writing which Lessor may, from time to time, give to or serve on Lessee under and pursuant to the terms and provisions hereof. Such copies shall be mailed or delivered to such holder, at, or as near as possible to, the same time such notices are given to or served on Lessee. Such holder may, at its option, at any time before the rights of Lessee shall be terminated as provided herein, pay any of the rents due hereunder, or pay any taxes and assessments, or do any other act or thing required of Lessee by the terms hereof, or do any act or thing that may be necessary and proper to be done in the observance of the covenants and conditions hereof, or to prevent the termination hereof; and all payments so made, and all things so done and performed by such holder shall be as effective to prevent a foreclosure of the rights of Lessee thereunder as the same would have been if done and performed by Lessee.

ARTICLE XIV

EVENTS OF DEFAULT AND REMEDIES

14.1. Events of Default by Lessee. Lessee shall be in default under this Lease upon the happening or occurrence of any of the following events or conditions, each of which shall be deemed to be an "Event of Default" for purposes of this Lease:

A. Lessee breaches or fails to observe or perform, to Lessor's reasonable satisfaction, any of Lessee's obligations, covenants, conditions, or responsibilities under this Lease, unless within thirty (30) days after notice from Lessor specifying the nature of such breach or failure, Lessee either cures such breach or failure or, if such cure cannot be completed within thirty (30) days, commences and diligently pursues such cure.

B. There is an assignment for the benefit of Lessee's creditors, or Lessee is adjudged a bankrupt, or a petition is filed by Lessee under the provisions of any state insolvency law or under the provisions of the Federal bankruptcy laws, or the business or principal assets of Lessee are placed in the hands of a receiver, assignee or trustee, or Lessee is dissolved, or Lessee's existence is terminated or its business is discontinued, provided, however, that the events described in this Paragraph shall not constitute an Event of Default or otherwise affect the validity of this Lease so long as rent continues to be paid to Lessor pursuant to Article III of this Lease, and so long as the other obligations, covenants, conditions and responsibilities of this Lease on the part of Lessee are performed. In such event, this Lease shall continue to remain in full force and effect in accordance with the terms herein contained.

C. Lessee takes any action which prevents Lessor from performing any of Lessee's obligations, covenants, conditions or responsibilities under this Lease, or fails to take any action which Lessor determines is reasonably necessary to enable it to perform any of its obligations, covenants, conditions or responsibilities under this Lease, unless, within thirty (30) days after notice from Lessor specifying the nature of such action or failure to act, Lessee either cures such action or failure to act, or, if such cure cannot be completed within thirty (30) days, commences and diligently pursues such cure.

D. Lessee fails to pay, when due, the rent determined under Article III of this Lease, and such failure continues for a period of thirty (30) days following the receipt by Lessee of a notice of such failure.

E. The Property is abandoned by Lessee for a period of one hundred and twenty (120) consecutive days, unless Lessee provides Lessor with a written notice of its intent to reoccupy the Property.

F. The estate or interest of Lessee in the Property is levied upon or attached in any proceeding and such process is not vacated or discharged within ninety (90) days after such levy or attachment, unless such levy or attachment is being contested pursuant to Section 10.5.

G. Any representation or warranty furnished by Lessee in connection with this Lease is false or misleading in any material respect when made.

14.2. Events of Default by Lessor. Lessor shall be in default under this Lease upon the happening or occurrence of any of the following events or conditions, each of which shall be deemed to be an "Event of Default" for purposes of this Lease:

A. Lessor breaches or fails to observe or perform, to Lessee's reasonable satisfaction, any of Lessor's obligations, covenants, conditions, or responsibilities under this Lease, unless within thirty (30) days after notice from Lessee specifying the nature of such breach or failure, Lessor either cures such breach or failure or, if such cure cannot be completed within thirty (30) days, commences and diligently pursues such cure.

B. There is an assignment for the benefit of Lessor's creditors, or Lessor is adjudged a bankrupt, or a petition is filed by Lessor under the provisions of any state insolvency law or under the provisions of the Federal Bankruptcy Laws, or the business or principal assets of Lessor are placed in the hands of a receiver, assignee or trustee, or Lessor is dissolved, or Lessor's existence is terminated or its business is discontinued; provided, however, that the events described in this Paragraph shall not constitute an Event of Default or otherwise affect the validity of this Lease, so long as the other obligations, covenants, conditions and responsibilities of this Lease on the part of Lessor are performed. In such event, this Lease shall continue to remain in full force and effect in accordance with the terms herein contained.

C. Lessor takes any action which prevents Lessee from performing any of Lessee's obligations, covenants, conditions or responsibilities under this Lease, or fails to take any action which is reasonably necessary to enable it to perform any of its obligations, covenants, conditions or responsibilities under this Lease, unless, within thirty (30) days after notice from Lessee specifying the nature of such action or failure to act, Lessor either cures such action or failure to act, or, if such

cure cannot be completed within thirty (30) days, commences and diligently pursues such cure.

D. Lessor or Lessor's directors, officers, agents, employees or representatives damage or otherwise willfully or negligently interfere with the operation of the Project.

E. KFC is in default under the Waste Coal Agreement, or KCS is in default under the Guaranty or the Thermal Energy Agreement.

F. If the estate or interest of Lessor in the Property is levied upon or attached in any proceeding and such process is not vacated or discharged within ninety (90) days after such levy or attachment, unless such levy or attachment is being contested pursuant to Section 10.5.

G. Any representation or warranty furnished by Lessor in connection with this Lease is false or misleading in any material respect when made.

14.3. Remedies Upon Default by Lessee. Upon the occurrence of an Event of Default by Lessee, Lessor may, subject to the provisions of Article XV:

A. Pursue, concurrently or separately, all remedies available at law, at equity, in bankruptcy or in other appropriate proceedings, including bringing an action or actions from time to time for recovery of amounts due and unpaid by Lessee, and/or for damages and expenses resulting from the Event of Default, which shall include all costs and expenses reasonably incurred in the exercise of its remedy (including reasonable attorney's fees), and/or for specific performance; and

B. Without recourse to legal process, terminate this Lease by delivery of a notice to Lessee declaring termination, in which case Lessor

shall allow Lessee to re-enter the Property to remove the Project, subject to the terms of Section 4.3.

14.4. Remedies Upon Default by Lessor. Upon the occurrence of an Event of Default by Lessor, Lessee may, subject to the provisions of Article XV:

A. Pursue, concurrently or separately, all remedies available at law, at equity, in bankruptcy or in other appropriate proceedings, including bringing an action or actions from time to time for recovery of amounts due and unpaid by Lessor, and/or for damages and expenses resulting from the Event of Default, which shall include all costs and expenses reasonably incurred in the exercise of its remedy (including reasonable attorney's fees), and/or for specific performance; and

B. Without recourse to legal process, terminate this Lease by delivery of a notice to Lessor declaring termination, in which case, Lessee shall have the option to either (i) re-enter the Property and remove the Project, or (ii) purchase the Property for its fair market value, which value shall be determined without regard to any value attributable to the presence of the Project. If Lessor elects to remove the Project, Section 4.3 shall not apply.

14.5. Remedies. Except as specifically limited in this Lease, each and every right, power and remedy of a Party, whether specifically stated in this Lease or otherwise existing, may be exercised from time to time and so often and in such order as may be deemed expedient by the exercising Party, and the exercise or the beginning of the exercise of any such right, power or remedy shall not be deemed a waiver of the right to exercise, at the same time or thereafter, any other right, power or remedy. No delay or omission of a Party in the exercise of any right, power

or remedy shall impair or operate as a waiver thereof or of any other right, power or remedy then or thereafter existing.

14.6. Continuation. Notwithstanding anything in this Lease to the contrary, if Lessor is in default, Lessee shall have the right to continue this Lease for the remainder of the Initial Term and any Renewal Term, and to continue to operate the Project.

ARTICLE XV

ARBITRATION OF DISPUTES

15.1. General. Any controversy or claim between the Parties with respect to the interpretation of this Lease, or the performance of the same, which the Parties cannot otherwise informally resolve (except any claim for damages because of bodily injuries, including death at any time resulting therefrom, sustained by any person or persons, and except any claim for damages because of injuries to or destruction of property) arising out of or relating to this Lease or the breach thereof, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association, except to the extent that such Rules are inconsistent with this Article, and the judgment upon the award rendered by the arbitrator shall be final and may be entered in any Court having jurisdiction thereof.

15.2. Notice. If an arbitrable dispute arises, either Party must give notice in writing to the other of its desire to submit such dispute to arbitration. Within thirty (30) days after the receipt of such notice by the other Party, the Parties shall appoint a single arbitrator, or, if they shall fail to agree on an arbitrator within ten (10) days, either Party may invoke the services of the American Arbitration Association to appoint an arbitrator. The arbitrator so appointed shall have full authority to act pursuant

to this Article. The arbitrator shall also have the right to award specific performance when it is provided for in this Agreement.

15.3. Arbitration Procedures. Within fifteen (15) days of his or her appointment, the arbitrator so appointed shall commence hearings on the dispute at Salt Lake City, Utah, at such reasonable time and place as shall be established by the arbitrator. The then current rules of the American Arbitration Association for the conduct of commercial arbitration proceedings shall govern the conduct of such hearings and the resolution of the dispute, except to the extent that such rules conflict with this Article or the then current laws of the State of Utah relating to arbitration.

ARTICLE XVI

TAXES

16.1. The Lessee shall pay any and all sales, use, excise, value added, gross receipts, license, property or other like or similar taxes which may now or hereafter be imposed with respect to this Lease or the Property. If the Lessee desires to contest the validity of any tax or tax claim, the Lessee may do so without being in default hereunder, provided that the Lessee gives the Lessor notice of the Lessee's intention to do so and furnishes the Lessor with a surety bond made by a surety company qualified to do business in the State of Utah or some other security reasonably satisfactory to Lessor. Such written notice and bond or reasonably satisfactory alternative security shall be given by the Lessee to the Lessor not later than twenty (20) days before the tax item or items proposed to be contested would otherwise become delinquent. If the Lessee shall fail, refuse, or neglect to make any of the payments required in this Article, then the Lessor may pay the same, and the amount or amounts of money so

paid, including reasonable attorneys' fees and expenses which have been reasonably incurred because of or in connection with such payments, shall be repaid by the Lessee to the Lessor, on the demand of the Lessor, and the payment thereof may be collected or enforced by the Lessor in an appropriate proceeding. The election by the Lessor to pay such taxes shall not waive the default committed by the Lessee.

16.2. Anything in this Section to the contrary notwithstanding Lessee shall not be required to pay any franchise, income, or excess profits taxes which may be payable by Lessor or Lessor's legal representative, successors, or assigns, nor shall Lessee be required to pay any tax that might become due on account of ownership of property other than that herein leased which may become a lien on the Property herein leased or collectable out of the same.

16.3. Lessor shall not take deductions and/or credits on its Federal, state or local tax returns with respect to the Project or any other improvements constructed by Lessee on the Property.

ARTICLE XVII

FORCE MAJEURE

17.1. Definition. "Force Majeure" means unforeseeable causes beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure, including but not limited to acts of God, wars, sabotage, riots, actions of the elements, civil disturbances, strikes, labor disturbances, the binding order of any court or government authority which has been resisted in good faith by all reasonable legal means, failure or want of any necessary supplies or products not within the control of such Party, and other acts, omissions or circumstances which are not

reasonably foreseeable. Force Majeure shall include any cause or event which, in Lessee's sole discretion, renders the continued operation of the Project impossible or uneconomical.

17.2. Burden of Proof. The burden of proof as to whether a Force Majeure has occurred shall be upon the Party claiming the Force Majeure.

17.3. Effect of Force Majeure.

A. General. If either Party is rendered wholly or partly unable to perform its obligations under this Lease because of Force Majeure, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that:

- (1) the non-performing Party, as soon as reasonably practical after the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice followed by a written notice that complies with Article 10 fully describing the particulars of the occurrence;
- (2) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- (3) no obligations of either Party that arose before the occurrence of the Force Majeure shall be excused as a result of such occurrence; and
- (4) the non-performing Party uses its best efforts to remedy its inability to perform as soon as possible.

B. Payment Obligations Not Excused. If Lessee is rendered unable, either wholly or in part, by Force Majeure to carry out its obligations under this Lease, Lessee shall nevertheless continue to pay all rental

payment due and owed to Lessor.

C. Strikes. Neither Party shall be required to prevent or settle any strike, walkout or other industrial labor dispute.

ARTICLE XVIII

RIGHT OF FIRST REFUSAL

In the event that at any time during the term hereof, Lessor shall receive from any third party a bona fide offer to purchase all or a portion of the Property at a price and on terms acceptable to Lessor, Lessor shall first provide a written notice (the "Notice") of the identity of the purchaser and the terms of the sale to Lessee, which Notice shall constitute an offer to sell the Property (or portion thereof) to Lessee under the same terms set forth in the Notice. Lessee shall have thirty (30) days following receipt of the Notice in which to notify Lessor in writing that it accepts the offer to purchase the Property (or portion thereof) under the terms set forth in the Notice. If Lessee accepts the said offer, Lessor shall withdraw all offers to other Persons and shall proceed to closing with Lessee within thirty (30) days of receipt of Lessee's Notice of Acceptance. If Lessee does not accept the said offer, Lessor may sell the Property (or portion thereof) to the purchaser specified in the Notice, provided that such sale shall be completed within one hundred and eighty (180) days after Lessee's receipt of the Notice. If the Property is sold to a third party, any such sale shall be expressly subordinate and subject to Lessee's rights under this Lease.

ARTICLE XIX

MISCELLANEOUS

19.1. Governing Law. This Lease shall in all respects be governed by and construed in accordance with the laws of the State of Utah, including, but not limited to, all matters of construction, validity and performance.

19.2. No Partnership. Nothing contained in this Lease shall be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability, or an agency relationship on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

19.3. Entire Agreement. This Lease contains the entire understanding of the Lessor and the Lessee with respect to the matters covered hereby and any transactions contemplated thereby, and supersedes and cancels any and all oral or written prior agreements, understandings, statements and representations between the Parties with respect to the constructing and operation of the Project, which shall be limited to those set forth in this Lease.

19.4. No Waiver. The failure of either Party to insist upon or enforce in any instance strict performance of any of the terms of this Lease or to exercise any rights hereunder conferred, shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

19.5. Amendments. No amendment or modification of the terms of this Agreement shall be binding on either Lessor or Lessee unless reduced to writing and signed by both Parties.

19.6. Captions. All captions, titles, subject headings, section titles and similar items are provided solely for the purpose of reference and

convenience, and are not intended to be inclusive, definitive or to affect the meaning, content or scope of this Lease.

19.7. No Merger. There shall be no merger of the leasehold estate granted hereby with any other estate in the Property by reason of the fact that the same person or entity acquires or holds, directly or indirectly, this Lease or any interest herein, as well as any other estate.

19.8. Notice and Service. Any notice, demand, request, consent, approval, confirmation, communication or statement which is required or permitted under this Lease shall be in writing, except as otherwise provided, and shall be given or delivered by personal service, telegram, Federal Express or comparable overnight mail service, or by deposit in any United States Post Office, postage prepaid, by registered or certified mail, addressed to the Party at the address set forth below. Changes in such address shall be made by notice similarly given.

Lessor:

Kaiser Coal Corporation
102 S. Tejon
Suite 800
Colorado Springs, CO 80903
Attention: President

Lessee:

Sunnyside Cogeneration Associates
102 S. Tejon
Suite 800
Colorado Springs, CO 80903
Attention: Managing General Partner

19.9. Maintenance of Records. Any documents or other records required to be maintained pursuant to this Lease shall be maintained for the lesser of (i) five (5) years, or (ii) twelve (12) months following termination of this Lease.

19.10. Several Obligations. Except where specifically stated in this Lease to be otherwise, the respective duties, obligations and liabilities of the Parties are intended to be several and not joint or collective.

19.11. Severability and Renegotiation.

A. Severability. Should any part of this Lease, for any reason, be declared invalid, such decision shall not affect the validity of the remaining portions, which remaining portions shall remain in force and effect as if this Lease has been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the Parties that they would have executed the remaining portion of this Lease without including therein any such part, parts or portion which may for any reason be hereafter declared invalid, provided, however, that this Paragraph shall not apply, and the Lease shall be terminated if, in the Lessee's sole discretion, the elimination of the invalid portions renders the continuation of the Lease impossible or uneconomical.

B. Renegotiation. Notwithstanding the provisions of the preceding Paragraph, should any term or provision of this Lease be found invalid by any court or regulatory body having jurisdiction thereof, the Parties shall immediately renegotiate in good faith such term or provision of the Lease to eliminate such invalidity.

19.12. Exhibits. This Lease includes the following Exhibits:

Exhibit A - description of the Property.

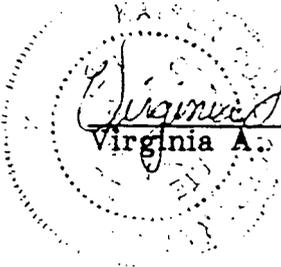
Exhibit B - existing liens and encumbrances.

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be signed by their respective officers thereunto duly authorized as of the day and year first set forth above.

KAISER COAL CORPORATION

By: Charles S. McNeil
Charles S. McNeil, President

ATTEST:


Virginia A. Coffman
Virginia A. Coffman, Secretary

SUNNYSIDE COGENERATION ASSOCIATES

By: B.G. Godec
B.G. Godec, Duly Authorized
Management Committee Member

WITNESS:

Robert E. Barton
Robert E. Barton

LMG4/31

EXHIBIT A

DEMISED PROPERTY

30 acres more or less adjacent to the coal tailings ponds in Section 6 Township 15 South, Range 14 East SLBM. The exact boundaries of the leased property will be determined prior to Lessee taking possession.

AMENDMENT TO LAND LEASE AGREEMENT

ACT 000007
File # 2 and #5
This document must accompany
the March 1995 complete inspection
report. J. Hauer

AMENDMENT made this 25th day of December, 1987, by an
between KAISER COAL CORPORATION, a Delaware corporation, with its
principal place of business at 102 South Tejon, Suite 400,
Colorado Springs, Colorado ("Lessor") and SUNNYSIDE COGENERATION
ASSOCIATES, a Utah Joint Venture, with its principal place of
business at 102 South Tejon, Suite 400, Colorado Springs,
Colorado ("Lessee"). Reference is made to a Land Lease Agreement
dated as of March 30, 1987 (the "Lease:), by and between lessor
and Lessee. Capitalized terms used in this Amendment not
otherwise defined herein shall have the meaning given therefor in
the Lease.

RECITAL

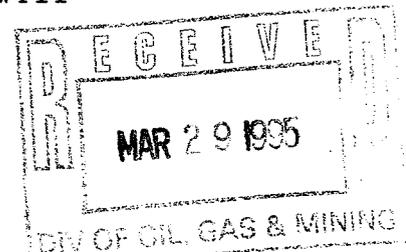
Sunnyside Power Corporation is now acquiring all the
assets of Kaiser Power Corporation. Those assets include all the
stock of the corporations which make up Lessee. In conjunction
with the acquisition Lessor and Lessee wish to make modifications
to the Lease.

NOW, THEREFORE, it is agreed:

1. The "WITNESSETH" Section of the Lease is deleted in
its entirety and the following substituted therefor:

WITNESSETH:

WHEREAS, Lessee is developing a
cogeneration project (the "Project") which will
be located in Carbon county Utah;



WHEREAS, Lessor owns certain real property located in Carbon county, Utah, as more particularly described in Exhibit "A" (the "Property") and desires to lease the Property to Lessee; and

2. Article II of the Lease is deleted in its entirety and the following substituted therefor:

ARTICLE II

DEMISED PROPERTY

- 2.1 Lessor hereby leases the Property to Lessee, and Lessee hereby leases the Property from Lessor, subject, however, to all existing liens and other encumbrances listed on Exhibit "B". During the term of this Lease, Lessee, its employees and agents shall have unrestricted access and right to use the Property for the purposes described in Article V hereof, and shall also have the right to use the Lessor's land adjoining the Property where necessary in connection with such purposes, provided that the use of such adjoining land is calculated to minimize interference with Lessor's property.
- 2.2 The final decisions as to the kind, locations and other details of easements Lessee will need over Lessor's adjoining land for Lessee's purposes have yet to be made. There have been certain preliminary determinations, however, and, without intending to impair the continued effectiveness of the last sentence of Section 2.1 as to such rights as to adjoining land, Lessor grants to Lessee and its successors and assigns, as appurtenant to the Property, and also as appurtenant to the area adjacent thereto being conveyed to Lessee's affiliate, Sunnyside Fuel Corporation, by concurrent deed herewith, the following perpetual easements, to be used in common with Lessor and any others now or hereafter from time to time entitled:
- (a) The right to use for vehicular access and egress and all other uses for which public

and private roads are used in the State of Utah, including installation of utilities, strips of land of suitable width to accommodate two-way industrial traffic (including without limitation necessary grading, bridging and the like) leading from the Property to State Route 123 to the following locations across the Denver and Rio Grande right of way:

- (i) from the general area of the northwesterly most corner of the Property (adjacent to the Railroad) to the general area of the curve in Route 123 near the northwesterly corner of the SW1/4 of Section 6, T15S, R14E, SLBM;
- (ii) in the general area of the line separating the easterly and westerly halves of said Section 6;
- (iii) the "Tonka Road", so-called, which is now in use, and which leads from the northeasterly corner of the southeasterly quarter, and/or the southeasterly corner of the northeasterly quarter, of said Section 6, into Section 5 of T15S, R14E, SLBM, and thence to Route 123 in said Section 5 or Section 6; and
- (iv) commencing at the Property where the Tonka Road commences and following the Tonka Road briefly and thence continuing along an existing roadway in said Section 5 and in Section 32 of T14S R14E, SLBM, to the present main entrance of the Kaiser Coal Company mine and thence continuing by the existing road to Route 123, together (both as to the area referred to in this clause (iv) and the area referred to in clause (iii) of this Section 2.2 with all Lessor's rights to cross railroad land and easements; provided, however that Lessee will release all its rights under subsection (a) of this Section 2.2 as to the area referred to in

this clause (iv) and as to the area referred to in clause (iii) of this Section 2.2 at such time as Lessee has obtained unconditional access satisfactory to Lessee direct from the Property to Route 123.

- (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 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; and
- (c) The right to install, maintain, repair, replace and use aboveground transmission lines and necessary appurtenances threto for the Lessee's plant to be erected on the Property and leading to the Utah Power & Light Company Columbia Substation in Section 18 T15S, R14E, SLBM, said lines to be in the general location of the line now leading from the Substation to the Sunnyside Mine (which leads through the Property and/or said adjacent area being conveyed to Lessee's affiliate).

3. Section 3.5 is deleted in its entirety.

4. Article V of the Lease is deleted in its entirety and the following substituted therefor:

ARTICLE V

BUSINESS OR ENTERPRISE TO BE CONDUCTED

It is agreed that the Property will be used in connection with the generation, production, distribution and sale and utilization of thermal energy and electric power and all activities in conjunction with or collateral thereto. The Lessee agrees that no other business will be conducted thereon without first obtaining the written consent of Lessor which consent shall not be unreasonably withheld or delayed. Lessee shall operate the Project in compliance with any federal, state or local laws, regulations or other requirements applicable to the Project.

5. Subsection G of Section 14.1 is deleted in its entirety.

6. Section 14.2, subsections E, F and G are deleted in their entirety and the following substituted therefor:

E. If the estate or interest of Lessor in the Property is levied upon or attached in any proceeding and such process is not vacated or discharged within ninety (90) days after such levy or attachment, unless such levy or attachment is being contested pursuant to Section 10.5.

F. Any representation or warranty furnished by Lessor in connection with this Lease is false or misleading in any material respect when made.

7. The following is added to Section 16.2:

Lessor and Lessee will cooperate in an attempt to have the Property and the Project separately assessed with respect to any taxes which are Lessee's responsibility under Section 16.1. Lessor shall in any event pay when due any tax which may become a lien on the Property or the Project (other than the taxes for which Lessee is liable under Section 16.1).

8. Section 19.13 is added to the Lease as follows:

If a prospective mortgagee from Lessee requests modifications of this Lease not materially affecting the economic substance of this Lease to Lessor, Lessor will, on request from Lessee, modify the Lease as requested.

9. Section 19.8 is amended by changing Lessee's address to the following:

Sunnyside Cogeneration Associates
c/o Environmental Power Corporation
53 State Street
Boston, Massachusetts

10. Article XX is added to the Lease as follows:

ARTICLE XX

Rights of Leasehold Mortgagees

20.1 If Lessee shall mortgage this Lease in compliance with the provisions of Article XIII of the Lease, then so long as any such mortgage shall remain unsatisfied of record, the following provisions shall apply:

(a) Lessor upon serving upon Lessee any notice of default or any other notice under the provisions of or with respect to this Lease, shall also serve a copy of such notice upon the holder of such mortgage, at the address provided for in paragraph (e) of this section, and no notice by Lessor to Lessee shall be deemed to have been duly given as to the holder of such mortgage unless and until a copy thereof has been so served.

(b) Any holder of such mortgage, in case Lessee shall be in default hereunder, shall, within the periods and otherwise as herein provided, have the right to remedy such default, or cause the same to be remedied, and Lessor shall accept such performance by or at the instance of such holder as if the same had been made by Lessee.

(c) For the purposes of this Article, no event of default shall be deemed to exist with respect to the performance of work required to be performed or of acts to be done, or of conditions to be remedied, if steps shall, in good faith, have been commenced within the time permitted therefor to rectify the same and shall be prosecuted to completion with diligence and continuity as in Article XIV hereof provided.

(d) Anything herein contained to the contrary notwithstanding, upon the occurrence of an event of default other than an event of default due to a default in the payment of money, Lessor shall take no action to effect

a termination of this Lease without first giving to the holder of such mortgage written notice thereof and a reasonable time thereafter within which either (i) to obtain possession of the mortgaged property (including possession by a receiver) or (ii) to institute, prosecute and complete foreclosure proceedings or otherwise acquire Lessee's interest under this Lease with diligence; provided, such mortgagee shall have, within sixty (60) days of receipt of notice from Lessor, given Lessor written notice of its intention and submitted to Lessor a plan or alternate plan reasonably acceptable to Lessor and reasonably calculated to remedy the default. A reasonable time shall mean not in excess of one (1) year, as to obtaining possession or instituting foreclosure proceedings and not in excess of such reasonable time as with due diligence is required to prosecute and complete foreclosure proceedings. Such holder, upon obtaining possession or acquiring Lessee's interest under this Lease, shall promptly cure all defaults; provided, however, that such holder shall not be obligated to continue such possession or to continue such foreclosure proceedings after such defaults shall have been cured. It is understood and agreed that such holder, or his designee, or any purchaser in foreclosure proceedings (including, without limitation, a corporation or other entity formed by such holder or by the holder) may become the legal owner and holder of this Lease through such foreclosure proceedings or by assignment of this Lease in lieu of foreclosure.

(e) Any notice or other communication which Lessor shall desire or is required to give to or serve upon the holder of a mortgage on this Lease shall be in writing and shall be served by registered or certified mail, return receipt requested, addressed to such holder at his address as set forth in such mortgage, or in any assignment of the mortgage, or at such other address as shall be designated by such holder by notice in writing given to Lessor by registered or certified mail. The date of

delivery as indicated or the return of receipt shall be deemed to be the date of delivery or service.

Any notice or other communication which the holder of a mortgage on this Lease shall desire or is required to give to or serve on Lessor shall be deemed to have been duly given or served if sent in compliance with Article 19.8.

(f) Anything herein contained to the contrary notwithstanding, the provisions of this Article shall inure only to the benefit of the holder of a leasehold mortgage which is a first lien on the leasehold created hereby and no third party including any other lienholder, shall have any right whatsoever to rely upon the provisions contained herein.

(g) Lessor and Lessee shall not modify or cancel any provision of this Lease affecting any rights of a leasehold mortgage or surrender this Lease without the prior written consent of any first leasehold mortgagee, nor shall Lessor and Lessee modify, amend or cancel any other provision of this Lease without giving such leasehold mortgagee thirty (30) days' prior written notice of the same.

(h) Notwithstanding any language contained herein to the contrary, Lessor may proceed to the extent required by law in a timely fashion to pursue its remedies against any person or entity potentially liable to Lessor other than Lessee and the first leasehold mortgagee.

20.2 If any first leasehold mortgagee or anyone claiming by, through or under such leasehold mortgage shall acquire title to Lessee's interest in this Lease, by foreclosure of a first mortgage thereon or by assignment in lieu of foreclosure or by an assignment from a nominee or wholly-owned subsidiary corporation or other entity of such mortgagee or under a new lease pursuant to this Article, such mortgagee or anyone claiming by, through or under such mortgagee may, subject to Lessor's approval which approval shall

not be unreasonably withheld, assign such lease and shall thereupon be released from all liability for the performance or observance of the covenants and conditions in such lease contained on Lessee's part to be performed and observed from and after the date of such assignment, provided that the assignee from such leasehold mortgagee shall have assumed such lease by documentation reasonably satisfactory to Lessor. A conditional assignment of Lessee's interest in this lease to a leasehold mortgagee as security for the mortgage shall not constitute an assignment the effect of which is to relieve the assignor of liability for the Lessee's obligations under this lease until such time as the leasehold mortgagee exercises its rights under such conditional assignment.

11. Article XXI is added to the Lease as follows:

ARTICLE XXI

OPTION TO PURCHASE

21.1 During the term of this Lease, Lessee shall have the option to purchase the Property. Said option is exercisable by Lessee giving Lessor written notice of the exercise of the option during the term of this Lease. In the event of exercise of this option, Lessor shall, within thirty (30) days after the exercise of this option, convey the Property to Lessee by warranty deed subject to those liens and encumbrances listed on Exhibit "B". The purchase price for the Property shall be equal to the present value of the unpaid balance of the rental provided for in this Lease (assuming an eight percent (8%) interest factor). The purchase price shall be paid by Lessee to Lessor in five (5) equal consecutive annual payments of principal and interest at eight percent (8%) with the first such payment being due at the time of purchase. Lessee shall give to Lessor a promisory note representing said payments at the time of purchase.

The Lease remains in full force and effect, unmodified except as expressly set forth hereinabove and as set forth in paragraph 12 hereinafter.

12. Exhibits "A" and "B" attached hereto are substituted for Exhibits "A" and "B" referenced in the Lease.

EXECUTED under seal as of the date first mentioned above.

KAISER COAL CORPORATION

BY *Diane A. Greco*
ITS *Agent*

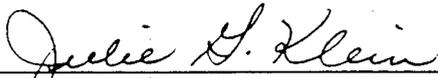
SUNNYSIDE COGENERATION ASSOCIATES

BY *J. S. [unclear]*
ITS *Authorized Management Committee Representative*

BY *Robert E. Barton*
ITS *Authorized Mgmt Committee Rep.*

STATE OF UTAH)
) : ss:
COUNTY OF SALT LAKE)

On the 28th day of December, 1987, personally appeared before me Denise A. Dragoo, who being by me duly sworn did say that she is the agent of Kaiser Coal Corporation and that said instrument was signed in behalf of said corporation by authority of its bylaws and said Denise A. Dragoo acknowledged to me that said corporation executed the same.



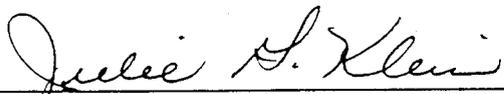
Notary Public
Residing in Davis County

My Commission Expires:

6/22/89

STATE OF UTAH)
) : ss:
COUNTY OF SALT LAKE)

On the 28th day of December, 1987, personally appeared before me B. G. Godec, who being by me duly sworn did say that he is the Authorized Management Committee Representative of Sunnyside Cogeneration Associates on and that said instrument was signed in behalf of said corporation by authority of its bylaws and said B. G. Godec acknowledged to me that said corporation executed the same.



Notary Public
Residing in Davis County

My Commission Expires:

6-22-89

STATE OF UTAH)
) : ss:
COUNTY OF SALT LAKE)

On the 28th day of December, 1987, personally appeared before me Robert E. Barton, who being by me duly sworn did say that he is the Authorized Management Committee Representative of Sunnyside Cogeneration Associates on and that said instrument was signed in behalf of said corporation by authority of its bylaws and said Robert E. Barton acknowledged to me that said corporation executed the same.



Notary Public
Residing in Davis County

My Commission Expires:

6/22/89

DAD:122787h

EXHIBIT A

Describing a parcel of land located in Carbon County, Utah, which is located in the south half of Section 6, Township 15 South, Range 14 East, Salt Lake Base and Meridian and being more particularly described according to the following courses and distances, to-wit:

Beginning at the southwest corner of the SE1/4SW1/4 of Section 6, Township 15 South, Range 14 East, Salt Lake Base and Meridian, which is a brass cap and running thence N 59°40'32" E, 666.58 feet to a metal fence post; thence N 44°13'50" E, 430.53 feet to a roof bolt; thence N 59°09'24" E, 167.86 feet to a metal fence post; thence N 63°51'14" E, 188.19 feet to a metal fence post; thence N 60°15'43" E, 335.60 feet to a metal fence post; thence N 21°00'31" W, 34.15 feet to an east brace post in a barbed wire fence; thence N 81°18'59" E, 1270.98 feet along an existing fence line to a roof bolt; thence N 36°40'17" E, 152.88 feet along a fence line to a roof bolt; thence N 10°54'48" W, 189.49 feet to a metal fence post; thence N 0°39'10" W, 254.39 feet to a metal fence post; thence N 10°09'48" W, 315.48 feet to a metal fence post; thence N 6°32'57" W, 232.70 feet to a roof bolt in an existing fence line; thence N 6°32'57" W, 65.24 feet to the south right of way line of a Denver and Rio Grande Railroad as described in a certain deed dated July 29, 1912; thence S 71°27'00" W, 2811.72 feet along the south line of a 50 foot wide right of way for the Denver and Rio Grande Railroad; thence S 0°50'04" W, 153.50 feet to the northwest corner of the SE1/4SW1/4 of said Section 6; thence S 0°50'04" W, 1326.02 feet along the west line of the SE1/4SW1/4 of said Section 6 to the point of beginning.

Containing 72.514 acres, more or less.

EXHIBIT B

LEASE EXCEPTIONS

1. A perpetual and exclusive Easement for railroad right of way crossing Sections 5 and 6 in T15S, R14E, and Sec. 32 in T14S, R14E, SLBM, as granted in the instrument dated July 29, 1912, executed by Utah Fuel Co. in favor of Denver & Rio Grande Railroad Co., recorded September 12, 1912, in Book 3B at page 459. Reference is made to said instrument and the record thereof for further particulars.
2. A Deed dated July 31, 1912, executed by Utah Fuel Co. in favor of the Denver and Rio Grande Railroad Co. recorded September 12, 1912 in Book 3B at page 461 for certain railroad tracks constructed and existing upon Sec. 5 and 6, T15S, R14E, SLBM, as described in said instrument.
3. A Pole Line Easement dated December 29, 1942, executed by Utah Fuel Co. in favor of Utah Power & Light Company recorded June 9, 1943 in Book 3W at page 599, granting a perpetual easement and right of way for the erection and continued maintenance of electric transmission, distribution and telephone circuits with necessary attachments across the SW 1/4 SE 1/4 and the SE 1/4 of the SW 1/4 of Section 6, T15S, R14E, SLBM, as therein described.
4. A Grant of Easement dated April 16, 1962, executed by Kaiser Steel Corporation in favor of Utah Power & Light Company recorded October 10, 1962 in Book 80 at page 608, granting a right of way and easement for the erection and continued maintenance of electric transmission, distribution and telephone circuits with necessary attachments across the NE 1/4 NE 1/4 of Section 7 and the S 1/2 SE 1/4 and SE 1/4 SW 1/4 of Sec. 6, T15S, R14E, SLBM.
5. A Right of Way Grant and Agreement dated November 24, 1950, executed by Utah Fuel Company and Mountain States Telephone and Telegraph Company recorded February 15, 1951 in Book 15-C at page 348 granting the right to construct, operate and maintain telephone and telegraph lines with necessary attachments in the town of Sunnyside, including Sunny Dale and other locations on accompanying plats (not attached or recorded).
6. A Right of Way Grant and Agreement dated December 29, 1950, executed by and between Kaiser and Frazer Parts Corporation and Mountain States Telephone and Telegraph Company, recorded February 15, 1951 in Book 15-C at page 350, granting the right to construct, operate and maintain telephone and telegraph lines with necessary attachments in the town of Sunnyside, including Sunny Dale, and other locations shown on accompanying plats (not attached or recorded).

7. A Grant of Easement dated December 31, 1970, executed by Kaiser Steel Corporation in favor of Utah Power & Light Company, recorded March 1, 1971 in Book 123 at page 329, granting a perpetual easement and right of way for the erection and continued maintenance of electric transmission, distribution and telephone circuits with necessary attachments along a line in the SE 1/4 SE 1/4 of Sec. 6, T15S, R14E, SLBM, as therein described.
8. NOTICE OF ATTORNEY'S LIEN dated November 26, 1984, executed by W. Jerry Ungricht of Ungricht, Randle & Deamer, recorded December 3, 1984 in Book 244 at page 589, claiming an Attorney's Lien as provided by Utah Code Annotated 78-51-41 for services rendered on behalf of New-Tech Mining Corporation on the matter of New-Tech Mining Corporation v. Kaiser Steel, et al., Civil No. C84-0426A in the United States District Court for the District of Utah, Blackjack #1 Mine on the following described property in Carbon County, Utah:

All coal refuse sources of New-Tech Mining Corporation in Carbon County, State of Utah, described as follows:

Section 7, T15S, R14E, SLBM:

N 1/2 of NE 1/4. That portion of the N 1/2 of NW 1/4 lying East of right of way of Carbon County railway.

Section 6:

S 1/2 of SE 1/4 of SW 1/4; S 1/2 of SW 1/4 of SE 1/4; S 1/2 of NE 1/4 of SW 1/4 of SE 1/4; SE 1/4 of SE 1/4.

That portion of NE 1/4 of SE 1/4 lying South of right of way of Denver & Rio Grande Railway. That portion of E 1/2 of NE 1/4 of NW 1/4 of SE 1/4 lying South of right of way of Denver & Rio Grande Railway. AMOUNT OF CLAIM: \$7,052.00.

9. A Notice of Lien, recorded February 18, 1987 in Book 269 at pages 758-764, wherein JBR Consultants Group claims and intends to hold a lien against Perma Resources and/or Kaiser Steel Corporation and/or Kaiser Coal Corporation in the amount of \$28,646.15, plus interest and attorney's fees.
10. Notice of Intention to Hold and Claim a Lien, recorded February 24, 1987 in Book 270 at pages 61-78, wherein Electrical Contractors, Inc. holds and claims a lien against Kaiser Coal Corporation in the amount of \$20,984.22, plus interest and attorney's fees.

11. Notice of Intention to Hold and Claim a Lien, recorded March 19, 1987 in Book 270 at pages 697-699, wherein B & R Reclamation Specialists, a partnership, claims a lien in the amount of \$22,985.00, plus interest and attorney's fees.
12. Any and all railroad rights of way and roadways in real Property. In NE 1/4 SE 1/4 Sec. 6 and SE 1/4 NE 1/4 of Sec. 6.

DAD:122887B