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Explanation:

STIPULATION FOR USE OF CASH COLLATERAL; ALLOWANCE AND

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STIPULATION FOR USE OF CASH COLLATERAL; ALLOWANCE AND
DISTRIBUTION ON SECURED CLAIM; RELIEF FROM STAY

This stipulation ("Stipulation") is entered into by and among Kenneth A. Rushton, as the duly appointed chapter 7 trustee ("Trustee") for Sunnyside Coal Company, and the Utah Division of Oil, Gas and Mining ("DOG M") and the Office of Surface Mining of the United States Department of the Interior ("OSM") (collectively the "Government").

WHEREAS On March 25, 1994 (the "Petition Date"), Sunnyside Coal Company ("Sunnyside") filed a petition seeking relief under Chapter 11 of the United States Bankruptcy Code.

WHEREAS, Sunnyside was a coal mining company incorporated under the laws of the State of Colorado.

WHEREAS, on June 23, 1995, the United States Bankruptcy Court for the District of Colorado ordered the conversion of this case to chapter 7 (the "Chapter 7 Case").

WHEREAS, on June 25, 1995, the District Court approved the appointment of Kenneth A. Rushton as the Chapter 7 Trustee for Sunnyside.

WHEREAS, the Government asserts a secured claim in the aggregate principal amount of \$2,040,000 in the Chapter 7 Case pursuant to a reclamation bond ("Bond") secured by a Trust Deed which by its terms encumbers a significant part of the property

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of the Sunnyside estate including the proceeds from the sale of such property (the "Collateral").

WHEREAS, pursuant to the order of the bankruptcy court allowing the sale of the major part of the estate's real property and water rights, the trustee has sold most of the real and personal property of the Sunnyside estate and the secured claim of the Government has attached to the proceeds of that sale including the cash and letters of credit issued pursuant thereto.

WHEREAS, the bankruptcy estate retains the ownership of approximately 110 acres of land commonly referred to as the "footprint property" upon which the Debtor conducted the major part of its above-ground mining operation and upon which the major part of Debtor's reclamation must be performed.

WHEREAS, the Trustee has determined that he cannot perform or cause to be performed the reclamation duties of the Debtor and the estate for less than \$1,860,000.

WHEREAS, the Sunnyside estate consists of, in part, \$1,780,000 (estimated) in cash ("Cash Collateral"), \$680,000 in irrevocable letters of credit issued by Farm Credit Services of Minnesota, ACA, and \$600,000 in a contract right receivable from the pending sale of Water Right 9-231 to Sunnyside Cogeneration Associates (the cash, letters of credit and contract rights are hereafter referred to as the "Aggregate Collateral"); all of the

foregoing being subject to the Government's secured claim against the Sunnyside estate.

NOW THEREFORE, Debtor and the Government stipulate and agree as follows:

1. Allowability and Amount of Government's Secured Claim.

The Government's secured claim is allowed in the amount of \$1,860,000 (the "Allowed Secured Claim"), which represents the full amount of the Government's secured claim based on the amount of the bond posted by the Debtor prepetition for reclamation duties on its property. The Government may not assert any further secured claim in this case and the Trustee may not object or seek the disallowance of such secured claim or the reduction of the amount. All other amounts asserted in the Government's proof of claim are unsecured and are subject to further objection by the Trustee or other parties in interest as permitted by the bankruptcy code. However, nothing herein prohibits the Government from making any claim to proceeds in the estate under Section 503 of the bankruptcy code or other legal or equitable principle except that the Government's secured claim is set for all purposes by this Agreement.

2. Payment on Account of Government's Secured Claim.

Subject to the provisions of paragraphs 3 and 4 herein, the Trustee shall make distribution on the Government's Allowed Secured Claim as follows:

a. \$800,000 to be distributed within 10 days of the approval of this agreement.

b. \$400,000 to be distributed within 30 days of the closing of the sale of certain water rights to Sunnyside Cogeneration, Inc.

c. ⁶⁶⁰\$680,000 to be distributed on or before July 31, 1997.

3. Sale of the Property; Release of Liens. The parties hereto agree that the Trustee is attempting to sell the footprint property and, in the process of such sale, he may choose to obligate a purchasing party to perform some or all of the necessary reclamation to be performed on the footprint property. The Government agrees to release any and all claims or liens, either legal or equitable, it may have against the footprint property for any reason including existing liens or claims or for future reclamation work performed by the Government or its agents on the footprint property. Nothing herein shall be deemed, however, to waive the Government's police power and statutory rights, by itself or by its agents, contractors or employees, to access the footprint property to perform any reclamation work.

4. Return of Distributed Amounts.

The Trustee may sell the footprint property for cash or other consideration before or after any reclamation work is performed or caused to be performed by the Government; any

or other portions of the debris's pent area

proceeds from the sale shall be property of Debtor's estate. To the extent a purchaser of the footprint property completes reclamation work on the footprint property to the satisfaction of the Government which causes the Government to expend less than \$1,860,000 in costs in reclaiming property subject to reclamation under the Debtor's bond, then the Government shall return to the Trustee any part of the amounts distributed hereunder which are not or shall not be expended in such reclamation activity. The determination of whether reclamation has been completed on such property will be governed by otherwise applicable state and federal reclamation law.

5. Use by the Government of the Distributed Amounts. In order to allow for the possibility of a purchaser proposing a post-mining land use with respect to some or all of the existing structures on the footprint property, the Government shall not destroy or reclaim the existing four (4) building structures on the footprint property until after July 31, 1997.

6. Bond Forfeiture. The order approving this stipulation shall be deemed to be a bond forfeiture of the bond posted by the Debtor in the amount of \$1,860,000 and not further proceeding shall be necessary to effect such forfeiture. However, such forfeiture and the effects of such forfeiture may not alter or amend the provisions of this Agreement or cause any deviation from the nature, timing, or return of payments set forth herein.

Neither may the bond forfeiture be deemed to fix or allow the Government's claim in any manner inconsistent with this Agreement.

7. Use of Cash Collateral. To the extent the Trustee complies with the provisions of this Agreement, the Trustee is authorized to use cash in the estate, including cash collateral, in any manner allowed by and consistent with the Bankruptcy Code.

8. Adequate Protection Liens. The Government agrees that the distribution proposed by this Agreement provides adequate protection, treatment, satisfaction and distribution on its valid liens and secured claims asserted in this case. The Government's lien is also adequately protected by the Aggregate Collateral which the Trustee will not permit to fall below the amount of remaining distribution to be made on the Government's secured claim as set forth above.

9. Compliance with Stipulation. Failure of the adequate protection provided hereunder shall, besides any remedy which might otherwise be available to the Government, cause the imposition of the superpriority lien provided for under Section 507(b) of the Bankruptcy Code.

10. Termination of Stipulation. This Stipulation shall continue in force until terminated. This Stipulation shall terminate only upon order of the court or upon mutual agreement of the parties hereto.

11. Subject to Court Order. This Stipulation is subject to, and shall be effective only upon, entry of an Order of the Bankruptcy Court which incorporates all of the terms of this Stipulation and which may also include such additional recitals, provisions and protection as are necessary and appropriate.

DATED this _____ day of September, 1996.

KENNETH A. RUSHTON

Chapter 7 Trustee of Sunnyside
Coal Company

UTAH DIVISION OF OIL, GAS & MINING

By: _____

Its: _____

UNITED STATES OFFICE OF SURFACE MINING

By: _____

Its: _____