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Sunnyside mine file

FAX

TO: Lowell P. Braxton, Deputy Director, DOGM, SLC
(Fax 359-3940)

James W. Carter, Director, DOGM, SLC
(Fax 359-3940)

Mary Ann Wright, Assistant Director-Mining, DOGM, SLC
(Fax 359-3940)

FROM: Patrick J. O'Hara, Asst. AG, Office of the Attorney General

DATE: November 19, 1996

RE: Sunnyside Bankruptcy--Cash Collateral Stipulation--Copy of Letter from
PJO'Hara to PWKeith 11/19/96

Fax consists of 4 pages including this cover sheet.

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERALJAN GRAHAM
ATTORNEY GENERALCAROL CLAWSON
Solicitor GeneralREED RICHARDS
Chief Deputy Attorney GeneralPALMER DEPAULIS
Chief of Staff

November 19, 1996

Sent to Fax 359-8256

Penrod W. Keith, Esq.
LeBoeuf, Lamb, Greene & McCrae, L.L.P.
136 South Main Street, Suite 1000
Salt Lake City, UT 84101

Re: In Re Sunnyside Coal--Draft Cash Collateral Stipulation

Dear Penrod:

Per our discussion earlier today regarding the 11/13/96 draft of the Cash Collateral Stipulation between Trustee Kenneth A. Rushton (the "Trustee"), the Utah Division of Oil, Gas & Mining ("DOG M"), and the U.S. Office of Surface Mining ("OSM"), this will confirm that DOGM and OSM both desire to move forward, subject to the four changes noted below. I suggest that we circulate three "final" versions of the Stipulation so that each of the three signatories will have an original for their respective files.

Change No. 1 Having checked the source documents, the stipulated amount should be changed to be exactly \$1,850,184, rather than \$1.86 million. Thus, please change the 11/13/96 draft as follows:

- A. Correct the eighth whereas clause and paragraphs 1, 4 and 6 to show the stipulated amount to be \$1,850,184.

Penrod W. Keith, Esq.

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- B. Correct paragraph 2c to show the amount of the final payment to be \$650,184 (not \$680,000).

Change No. 2 As we discussed, the Stipulation should also expressly address the disposition of the \$75,000 Zions Bank certificate of deposit. I suggest we add a new paragraph 7 after the existing paragraph 6, as follows:

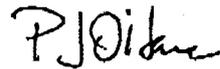
7. Zions Bank Certificate of Deposit. In a pre-petition administrative matter before DOGM styled as In the Matter of Bond Inadequacy, Sunnyside Coal Company, Sunnyside Mine, Carbon County, Utah, Cause ACT/007/007, on May 24, 1993 DOGM issued "Corrected Findings in Re Sunnyside Coal Company, Sunnyside Mine, Carbon County, Utah ACT/007/007" (the "5/24/93 Findings"). Paragraphs 20-22 of the 5/24/93 Findings describe that certain "Agreement and Release of Reclamation Contract" dated August 28, 1989 (the "8/28/89 Agreement"), pursuant to which the Debtor provided certain assurances and certain additional security to the Government for the reclamation of the Sunnyside Mine. The additional security under the 8/28/89 Agreement was in the form of a certain \$75,000 Zions Bank certificate of deposit (the "CD"). The CD was issued by Zions Bank on or about 8/30/89 for the benefit of the Government, but with the interest to be paid to the Debtor. Because interest on the CD accumulated in favor of the Debtor and not in favor of the Government, the Trustee and the Government hereby agree that the value to the Government of said CD collateral is and has been \$75,000 (not \$78,051.37 as indicated in the typographical error in paragraph 22 of the 5/24/93 Findings, and not \$98,051.37 as indicated by the typographical error in paragraph 25(b) of the 5/24/96 Findings). Based on the terms of this Stipulation, whereby the Government shall receive from the Trustee the full secured reclamation liability amount of \$1,850,184 as established by the pre-petition 5/24/93 Findings, the Government hereby authorizes Zions Bank immediately to release the \$75,000 certificate of deposit, with accumulated interest, if any, to the Trustee, the Debtor's lawful representative. Except as expressly provided herein with regard to the treatment of the CD, the Government and the Trustee agree that nothing in this Stipulation shall be construed to change, alter, release, waive or otherwise amend the provisions of the 5/24/93 Findings or the 8/28/89 Agreement. The Government and the Trustee further agree that nothing in this Stipulation shall prevent the Government from pursuing an unsecured claim against the Debtor for reclamation costs which exceed \$1,850,184.

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Change No. 3 In the last line of paragraph 3 on page 4, please insert the words "or other portions of the Debtor's Permit Area" between the phrase "footprint property" and the phrase "to perform".

Change No. 4 In the third line of paragraph 6 on page 5, change the word "not" to the word "no".

Very truly yours,



Patrick J. O'Hara
Assistant Attorney General

cc: Lowell P. Braxton, Deputy Director, DOGM, SLC
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James W. Carter, Director, DOGM, SLC
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