

0021

*KS orig memo file
of L. Buxton
DKR*

LAW OFFICES
PRUITT, GUSHEE & FLETCHER

ROBERT G. PRUITT, JR.
OLIVER W. GUSHEE, JR.
F. ALAN FLETCHER
THOMAS W. BACHTELL
A. JOHN DAVIS, III
FREDERICK M. MACDONALD
STEVEN PAUL ROWE

SUITE 1850 BENEFICIAL LIFE TOWER
SALT LAKE CITY, UTAH 84111
(801) 531-8446

TELECOPIER (801) 531-8468

OF COUNSEL
BRENT A. BOHMAN

December 15, 1989

RECEIVED
DEC 18 1989

Dr. Dianne R. Nielson, Director
State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

DIVISION OF
OIL, GAS & MINING

Re: Self Bond Qualifications
U.S. Fuel Company, Hiawatha Mine Complex,
ACT/007/011, Folder Nos. 3 & 4,
Carbon County, Utah

By letter of September 20, 1989, U.S. Fuel was notified "the Division can not [sic] find conformity with the requirements of UMC 800.23 B 4(i) to support U.S. Fuel Company's self bond" in the Price Waterhouse Review Opinion dated March 1, 1989, of U.S. Fuel's 1988 financial statements. The self bond represents partial bonding for U.S. Fuel's Hiawatha mining and reclamation plan. The Notice provided ninety (90) days to submit the data required under UMC 800.23 B 4(i).

Mr. Newcomb's letter to you of October 9, 1989, stated that Sharon considers DOGM to have incorrectly interpreted the Price Waterhouse Review Opinion and requested an additional sixty (60) day period within which to respond. The extension was granted by your letter of October 16, 1989, and a clarification of the Price Waterhouse 1988 Review Opinion was suggested.

To focus upon the issue, UMC 800.23 B 4(i) of the Utah Rules concerning bond requirements reads as follows:

4. The applicant submits:

- (i) financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion;

Dr. Diane R. Nielsen, Director
December 15, 1989
Page 2

Enclosed is a letter addressed to you and forwarded to me for transmittal, dated December 7, 1989, from David H. Hamstead, partner in the Pittsburgh office of Price Waterhouse. The letter speaks for itself in providing an explanation and clarification of review opinions and includes attachments of the professional standards to which certified public accountants adhere in reviewing financial statements and issuing review opinions.

The alternative of a review opinion is found in the federal OSM regulation upon which the Utah regulation is based and was discussed in the Federal Register, Volume 48 No. 155 of Wednesday, August 10, 1983. The discussion, which resulted in the described regulation, points out that neither an audit or review opinion predicts the outcome of future events and, therefore, OSM concluded that an independent CPA's audit or review opinion addresses the accuracy of the information in a financial statement. The discussion also noted that a review opinion is allowed to save the expense of an audit opinion to those companies that do not submit annual reports to the SEC and the review opinion gives equivalent protection to the regulatory authority.

As an update of self bond qualifications information, also enclosed are the following:

1. U. S. Fuel's unaudited financial statement in the form of a balance sheet for calendar quarter ending September 30, 1989.
2. Updated Self Bonding Qualification Sheet (revised September 15, 1989) for the quarter ending September 30, 1989, together with comparison figures of December 31, 1988.

The enclosed information is intended as a supplement to the Review Opinion of March 1, 1989, the U.S. Fuel unaudited quarterly financial statements filed with DOGM in compliance with UMC 800.23 B 4(ii) and response to the Notice of September 20, 1989 to supply required data. It is noted that Mr. Hamstead offers to meet with you to discuss the matters contained in his letter. If such a meeting is necessary, I suggest that a DOGM or other state agency official qualified in the analysis and preparation of financial statements and resulting opinions and familiar with the regulations involved, meet with Mr. Hamstead and U.S. Fuel officials. I will arrange such a meeting at your request.

U.S. Fuel continues to comply in all respects with requirements for furnishing necessary financial information supporting its self bond. It should also be of interest to you that U.S. Fuel has recently contracted to purchase an additional continuous mining

Dr. Diane R. Nielsen, Director
December 15, 1989
Page 3

machine which is an illustration of the ongoing vitality of the Hiawatha operations.

Very truly yours,


O. W. Gushee, Jr.

OWG:jh
0395.71

Enclosures

cc: Jim Newcomb (w/encs.)
Gary Barker (w/encs.)

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Price Waterhouse



December 7, 1989

Dr. Dianne R. Nielson
Director
State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203

Dear Dr. Nielson:

U.S FUEL COMPANY
SELF-BONDING QUALIFICATIONS ACT/007/011

At the request of Mr. James M. Newcomb, Senior Vice President of our client, United States Fuel Company (the Company), I am writing to you to address the appropriateness of our review report dated March 1, 1989 issued on the 1988 consolidated financial statements of the Company. Mr. Newcomb has provided us with a copy of your letter to Mr. Gary Barker of the Company dated September 20, 1989 in which you conclude that the wording of our review report is unacceptable for purposes of the Company's self bonding requirements.

With the exception of the second paragraph of our review report which addresses the Chapter 11 bankruptcy proceedings of U.S Fuel Company's parent company, the wording which we used is in accordance with the American Institute of Certified Public Accountants (AICPA) Professional Standards (the Standards) for review of financial statements. I have enclosed a copy of this section (AR 100.35 - page 3321) of the Standards for your information. The prescribed words in the Standards were carefully chosen so that readers would clearly understand the scope of a review engagement. As a professional, we are not permitted to vary from the language prescribed in our Standards.

A review of financial statements consists of inquiry and analytical procedures that provide an accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles. I have also enclosed for your information a definition of a "review of financial statements" from the Standards (page 3313).

December 7, 1989
Dr. Dianne R. Nielson
Page 2



As you can imagine, since the scope of audit work performed in connection with a review of financial statements is less than the full scope required for examination of financial statements in accordance with the generally accepted auditing standards, the fee for performing this service is significantly less. In most cases, we have found that a review costs less than 50% of a full scope examination. Therefore, where statutory requirements permit alternatives due to cost versus benefit, etc. our clients generally choose the review approach to compliance.

Under the circumstances described in the foregoing three paragraphs, the review report on the Company's 1988 financial statements should be acceptable to the State of Utah.

I would be glad to meet with you to discuss this matter further, if necessary. I can be reached at 412-355-6109.

Sincerely,

A handwritten signature in cursive script that reads "David W. Hamstead".

David W. Hamstead
Partner

DWH/ss

Enclosures -
As stated

cc: Mr. James Newcomb

c. A review consists principally of inquiries of company personnel and analytical procedures applied to financial data.

d. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements taken as a whole and, accordingly, no such opinion is expressed.

e. The accountant is not aware of any material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles, other than those modifications, if any, indicated in his report.

Any other procedures that the accountant might have performed before or during the review engagement, including those performed in connection with a compilation of the financial statements, should not be described in his report.

.33 The date of completion of the accountant's inquiry and analytical procedures should be used as the date of his report.

.34 Each page of the financial statements reviewed by the accountant should include a reference such as "See Accountant's Review Report."

.35 The following form of standard report is appropriate for a review.¹²

I (we) have reviewed the accompanying balance sheet of XYZ Company as of December 31, 19XX, and the related statements of income, retained earnings, and changes in financial position for the year then ended, in accordance with standards established by the American Institute of Certified Public Accountants. All information included in these financial statements is the representation of the management (owners) of XYZ Company.

A review consists principally of inquiries of company personnel and analytical procedures applied to financial data. It is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, I (we) do not express such an opinion.

Based on my (our) review, I am (we are) not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with generally accepted accounting principles.

.36 When an accountant is unable to perform the inquiry and analytical procedures he considers necessary to achieve the limited assurance contemplated by a review, his review will be incomplete. A review that is incomplete is not an adequate basis for issuing a review report. In such a situation, the accountant should consider whether the circumstances resulting in an incomplete review also preclude him from issuing a compilation report on the entity's financial statements. In making that judgment, the accountant should consider matters similar to those discussed in paragraphs .44-.49.

.37 An accountant may be asked to issue a review report on one financial statement, such as a balance sheet, and not on other related financial

¹² See paragraphs .39-.41 for the accountant's responsibilities when he is aware of departures from generally accepted accounting principles.

Compilation of financial statements. Presenting in the form of financial statements⁵ information that is the representation of management (owners) without undertaking to express any assurance on the statements. (The accountant might consider it necessary to perform other accounting services to enable him to compile financial statements. See paragraph .11.)

Review of financial statements. Performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting. (The accountant might consider it necessary to compile the financial statements or to perform other accounting services to enable him to perform a review. See paragraph .28.)

The objective of a review differs significantly from the objective of a compilation. The inquiry and analytical procedures performed in a review should provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements. No expression of assurance is contemplated in a compilation.

The objective of a review also differs significantly from the objective of an examination of financial statements in accordance with generally accepted auditing standards. The objective of an audit is to provide a reasonable basis for expressing an opinion regarding the financial statements taken as a whole. A review does not provide a basis for the expression of such an opinion because a review does not contemplate a study and evaluation of internal accounting control, tests of accounting records and of responses to inquiries by obtaining corroborating evidential matter through inspection, observation or confirmation, and certain other procedures ordinarily performed during an audit. A review may bring to the accountant's attention significant matters affecting the financial statements, but it does not provide assurance that the accountant will become aware of all significant matters that would be disclosed in an audit.

The Accountant's Reporting Obligation

.05 Management, shareholders, credit grantors, and others who use financial statements should be able to readily identify the degree of responsibility, if any, the accountant is taking with respect to such financial statements. A written report is recognized by users of financial statements as the vehicle by which an accountant indicates that responsibility. Accordingly, whenever an accountant compiles or reviews financial statements of a nonpublic entity, he should issue a report prepared in accordance with the applicable standards in this statement. However, when the accountant

⁵ Paragraphs .19-.21 of this statement provide guidance to the accountant engaged to compile financial statements that omit substantially all of the disclosures required by generally accepted accounting principles or another comprehensive basis of accounting.

UNITED STATES FUEL COMPANY

BALANCE SHEET
(UNAUDITED)
(THOUSANDS OF DOLLARS)

LIABILITES 09/30/89

Payables	
Accounts Payable	\$659
Royalty Payable	44
Reclamation	30
Excise Tax	2
Employee Deductions	26
Withholding Taxes	93
Lease/Other Payables	7

	861

Accrued Liabilities	
Salaries & Wages	290
Vacation & Allowances	122
Taxes	(173)
UMWA Benefit Trust	71
FICA Taxes	27
Other Accrued Liabilities	556

	893

Due To Affiliates	0

TOTAL CURRENT LIABILITIES	1,754

Long Term Liabilities	
Lease/Other Payables	11
Black Lung Accrual	185
Future Retirement/Other	6,490

	6,686

TOTAL LIABILITIES	8,440

STOCKHOLDERS EQUITY

Common Stock	6,400
Capital In Excess of Par	2,927
*Retained Earnings	3,052

	12,379

TOYAL LIABLILTIES & EQUITY	\$20,819
	=====

*Retained Earnings Contains Y.T.D.
Profit/Loss of: (\$1,582)

UNITED STATES FUEL COMPANY

BALANCE SHEET
(UNAUDITED)
(THOUSANDS OF DOLLARS)

ASSETS	09/30/89
Cash	
Regular	(\$305)
Payroll	74
On Hand	2

	(229)

Short Term Investments	3,104

Receivables	
Coal Customers	1,307
Other	358
Due From Affiliates	2,553

	4,218

Allow. For Doubtful Accts.	0

Inventories	
Coal	456
Material & Supplies	1,121

	1,577

Prepaid Expenses	37
Deposits	2

	39

TOTAL CURRENT ASSETS	8,709

Property, Plant & Equipment	
Property & Rights	470
Coal Leases	17
Coal Lands	5,056
Allow. for Depletion	(2,432)
Development-King 6	513
Amortization-King 6	(50)
Improvements & Equipment	14,678
Accumulated Depreciation	(8,934)
Farm & Dairy	95
Accumulated Depreciation	(67)
Auto & Trucks	148
Accumulated Depreciation	(124)
Capital Leases	3,050
Accumulated Depreciation	(2,956)
Construction in Progress	1,131

	10,595

Other Assets-Non Current	
Bonding	75
Deffered IPP	1,440

	1,515

TOTAL ASSETS	\$20,819
	=====

COAL
(August 1985)

Mine Name Hiawatha Complex
Permit No. ACT/007/011
Date October 29, 1986
Checked By _____

SELF BONDING QUALIFICATION SHEET

Applicant Required to Meet One of the Following Criteria:

UMC 800.23(b)(3)

1. Current rating for most recent bond issuance ("A" or higher) (Moody's Investor Service or Standard and Poor's Corporation)

At 12/31/88	At 9/30/89
----------------	---------------

or

2.

A. Tangible Net Worth = (at least \$10 million) (Net worth minus intangibles [Goodwill and rights to patents or royalties])

\$13,961,000	\$12,379,000
--------------	--------------

B. Total Liabilities/Net Worth = Obligations to transfer to other assets or provide services to other entities/Total assets minus total liabilities and is equivalent to owner's equity (2.5 times or less).

.70	.68
-----	-----

C. Current Assets/Current Liabilities = Cash or other assets or resources which are reasonably expected to be converted to cash or sold or consumed within one year/Obligations which are reasonably expected to be paid or liquidated within one year (1.2 times or greater).

3.44	4.97
------	------

Reference: Price Waterhouse Review Opinion as of December 31, 1988 and U.S. Fuel Company Balance Sheet (unaudited) as of September 30, 1989.

or

3.

A. Fixed assets in the United States (at least \$20 million) =

B. Total Liabilities/Net Worth =
(2.5 times or less)

Current Assets/Current
Liabilities (1.2 times or
greater) =

Reference:

UMC 800.23(b)(1)

Suitable agent (resident within the state of Utah)

Prentice-Hall Corp. Systems
185 South State, Suite 600
Salt Lake City, UT 84111

UMC 800.23(b)(2)

Been in continuous operation of not less than five (5) years
(immediately preceding the time of application) ~~(submitted five~~
~~annual reports)~~ - Yes X No

UMC 800.23(b)(4)

(i) Financial statements prepared by an independent certified
public accountant in conformity with generally accepted accounting
principles. Yes X No

(ii) Unaudited financial statements for completed quarters in
the current fiscal year. Yes X No

(iii) Additional unaudited information as requested by the
Division.

Balance Sheet (unaudited) as of September 30, 1989.



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter
Governor

Dee C. Hansen
Executive Director

Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

October 16, 1989

CERTIFIED RETURN RECEIPT REQUESTED
No. P 075 063 265

Mr. J. M. Newcomb, Senior Vice President
U. S. Fuel Company
One Tabor Center
1200 Seventeenth Street, Suite 1390
Denver, Colorado 80202

Dear Mr. Newcomb:

Re: Alternate Bond Form Request, U. S. Fuel Company, Hiawatha Mine Complex,
ACT/007/011, Carbon County, Utah

I am responding to your letter of October 9, 1989 requesting a 60-day extension to the Division's time frame for posting of an alternate form of surety as enumerated in my September 20, 1989 letter. I appreciate your review of the circumstances behind this request with Lowell Braxton on October 3, 1989. The extension is granted on the basis of that conversation, your letter of October 9, and your willingness to require Price Waterhouse to provide clarification of their 1988 review opinion of U. S. Fuel Company. Lowell Braxton will maintain regular contact with you pending resolution of the bond adequacy question for the Hiawatha Complex during the 90-day and 60-day periods, respectively. Your cooperation is appreciated.

Best regards,

Dianne R. Nielson
Director

vb
cc: Oliver Gushee, Pruitt, Gushee & Fletcher
Gary Barker, U. S. Fuel Company
L. Braxton
S. Linner
MI78/46

UNITED STATES FUEL COMPANY

One Tabor Center
1200 Seventeenth St., Suite 1390
Denver, Colorado 80202
Telephone (303) 893-0800
FAX (303) 893-2826

*orig memo file
route to L. Braxton*

RECEIVED
OCT 11 1989

October 9, 1989

Ms. Dianne R. Nielson
Director
State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

DIVISION OF
OIL, GAS & MINING

Re: Alternate Bond Form Request,
U.S. Fuel Company, Hiawatha Mine Complex,
ACT/007/011, Folder Nos. 3 & 4, Carbon County, Utah

Dear Ms. Nielson:

We are in receipt of your September 20, 1989 letter, subject as above. Although U.S. Fuel Company has complied with all self-bonding requirements and continues to do so, there are extenuating circumstances which will delay our response beyond the ninety (90) days of receipt of your letter (September 25, 1989) and an additional sixty (60) day period is hereby requested. These circumstances and extension were discussed with Mr. Lowell Braxton of your office on October 3 during my meeting with him in Price, Utah.

Even though we believe you have placed an incorrect interpretation on it, concurrent with this request we will be contacting our auditors, Price Waterhouse, to again attempt to clarify the cover letter of their 1988 review opinion of U.S. Fuel Company.

We look forward to your favorable consideration of this extension request such that operations at U.S. Fuel Company will not cease on December 24, 1989.

Very Truly Yours,



J.M. Newcomb
Sr. Vice President

JMN/ss

cc: Mr. O.W. Gushee, Esq.
Mr. G. Barker





Norman H. Bangertter
Governor

Dee C. Hansen
Executive Director

Dianne R. Nielson, Ph.D.
Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

May 15, 1989

TO: Sue Linner, Permit Supervisor

FROM: Randy Harden, Reclamation Engineer 

RE: Self-Bonding, US Fuel Company, Hiawatha Mine, ACT/007/011,
Folder 4, Carbon County, Utah

In accordance with the requirements for self bonding, under part UMC 800.23.B.4(i), financial statements for the most recently completed fiscal year must be accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion.

In the Price Waterhouse letter dated November 2, 1988, a determination was made by Price Waterhouse that, "It (the financial data) is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion."

Oliver Gushie, Attorney representing U.S. Fuel on bonding issues was contacted by the Division on May 7, 1989 regarding the concerns and implications of this wording within the text of the financial statements. Mr. Gushie was contacted again on May 15, 1989 to follow up on their response to inquiries within this statement.

Mr. Gushie indicated that the above referenced wording was directed at indicating that the statement was not an audit statement, but agreed that the report did not indicate that the statement was a review opinion of the financial statements with no adverse opinion.

Because annual statements for Hiawatha are now due and Price Waterhouse will be provided a review opinion, Mr. Gushie was asked to have Price Waterhouse clarify the accountant's statement to reflect the wording and the intent of the regulations. In lieu of requiring modification of prior statements provided by Price Waterhouse, it was agreed that the changes incorporated into the forthcoming annual report by Price Waterhouse would be sufficient.

cc: Lowell Braxton
BT12/9



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter
Governor

Dee C. Hansen
Executive Director

Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

March 29, 1989

TO: File

FROM: Randy Harden, Reclamation Engineer 

RE: Proposed Middle Fork Loadout Facilities, US Fuel Company, Hiawatha Mine, ACT/007/011-89B, Folder 4, Carbon County, Utah

SUMMARY:

This memo is in response to U.S. Fuel's request to upgrade their Middle Fork loadout facility. With the exception of the requirements under UMC 817.95, the facilities are considered approvable as proposed by the operator. These modifications will have to be reviewed and approved by Air Quality prior to approval by the Division.

ANALYSIS:

The operator intends on upgrading the existing loadout facilities in Middle Fork. Equipment added to the loadout will consist of a 30' conveyor, screen and hammer mill to crush run-of-mine coal, and, a 100 ton silo.

Information provided by the operator does not appear to be sufficient for modification of the Air Quality permit. The size and capacity of the screen and hammer mill are not included in the proposal. The capacity and daily output of the modified loadout is also not provided. The operator has not indicated what methods will be utilized for dust control of the added facilities.

In accordance with the requirements of UMC 817.95, the operator should supplement the proposal with the above information and obtain approval for the proposed modifications from Air Quality prior to approval. A complete description of any bag houses, filters, spray or other dust control systems should be fully described.

CONCLUSION:

Approval for construction of these facilities will be considered upon acceptance by Air Quality and the additional information as requested.

cc: J. Helfrich
BT12/6