

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERALJAN GRAHAM
ATTORNEY GENERALRec @ OGA
5/10/99CAROL CLAWSON
Solicitor GeneralREED RICHARDS
Chief Deputy Attorney GeneralPALMER DEPAULIS
Chief of Staff

May 7, 1999

SENT VIA FACSIMILE AND REGULAR MAIL

Denise A. Drago
SNELL & WILMER, LLP
111 East Broadway, Suite 900
Salt Lake City, Utah 84111

RE: YOUR LETTER OF MAY 7, 1999

Dear Denise

ACT/007/020 #2

Thank you for your letter of May 7th.

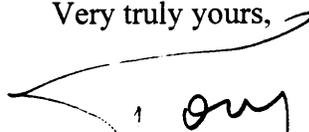
Let me clarify that your understanding of our conversation is flawed in two respects. We do not have an agreement because I am not asking you to do anything in return for the Division doing anything. Instead, I am informing you that the Division's actions regarding the Notice of Violation which arose from the February Division Order is being vacated. Further, a new Division Order will be issued which will follow along the general lines set forth in your letter of May 7th. Finally, the Division has not agreed to revise the Technical Analysis & Findings dated April 23, 1999 to delete any particular item in a particular amount, but rather to inform you that the Division will review and revise its bond amount findings consistent with the findings of the chairman in the matter which is now dismissed. The Division will then incorporate your responses to the Division Order and other submittals in arriving at a new bond amount if justified.

However you are correct that we agreed to meet with the Division on Wednesday, May 12, 1999 at 2:30 p.m. to discuss remaining issues regarding bond increase and related findings.

Denise A. Drago
May 7, 1999
Page Two

Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tom Mitchell', with a long horizontal flourish extending to the left.

Thomas A. Mitchell
Assistant Attorney General

cc: Lowell Braxton
Mary Ann Wright
Daron Haddock
David D. Lauriski
Patrick O'Hara

Snell & Wilmer

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111 East Broadway, Suite 900
Salt Lake City, Utah 84111
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COMMUNICATIONS
FACILITY

SALT LAKE CITY, UTAH

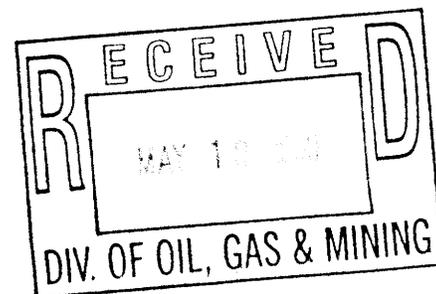
PHOENIX, ARIZONA

TUCSON, ARIZONA

IRVINE, CALIFORNIA

May 7, 1999

Via Facsimile & U.S. Mail



Thomas A. Mitchell, Esq.
Assistant Attorney General
160 East 300 South
4th Floor
Salt Lake City, Utah 841

**RE: *Horizon Mine, Permit No. ACT/007/020
Division Order dated February 25, 1999, NOV N99-26-1-1 and
Board Docket No. 99-001***

Dear Tom:

On behalf of Horizon Mining, LLC ("Horizon"), this letter clarifies our conversation of May 6, 1999, in light of your response letter of May 7, 1999, regarding the above-entitled matters. We understand that the Utah Division of Oil, Gas & Mining ("Division") is withdrawing the February 25, 1999 Division Order ("Division Order"). If this is the case, it was our understanding that the Technical Analysis and Findings for Midterm Review ("Findings") and reclamation bond would be revised to the extent the Findings were based on the Division Order. The Findings and proposed reclamation bond as currently written are in violation of the Board of Oil, Gas Mining's ("Board's") interlocutory order dated April 15, 1999. If the Division Order has not been withdrawn, we will pursue our appeal and the Division's violation of the Board's interlocutory order.

I will instruct Horizon that it is no longer required to submit an amended Mining and Reclamation Plan ("MRP") by the May 28, 1999 date previously agreed to. Presumably, the new Division Order will set a new deadline which will give Horizon adequate time to amend the MRP. However, in the event that the new Division Order sets requirements based on the assumption that high ash coal is coal mine waste, Horizon will be back before the Board once again. If this is the position of the Division, we should simply proceed with the hearing currently set before the Board on May 26, 1999.

Snell & Wilmer
LLP

Thomas A. Mitchell, Esq.
May 7, 1999
Page 2

Please let me know immediately if the Division Order has not been withdrawn.

Very truly yours,



Denise A. Dragoo

DAD:jmc:79162

cc: Lowell Braxton
Mary Ann Wright
Daron Haddock
Daniel Moquin, Esq.
Dave D. Lauriski
Patrick O'Hara, Esq.
Scott Kiscaden
Larry Jones
Mark Wayment
Earthfax Engineering, Inc.

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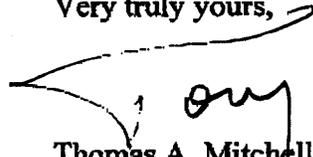
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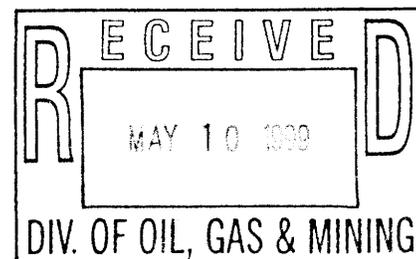
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Salt Lake City, Utah 841

**RE: *Horizon Mine, Permit No. ACT/007/020
Division Order dated February 25, 1999, NOV N99-26-1-1 and
Board Docket No. 99-001***

Dear Tom:

This letter confirms our agreement regarding the above-entitled matters on behalf of Horizon Mining, LLC ("Horizon"), and the Utah Division of Oil, Gas & Mining ("Division"), respectively. You have confirmed that the Division will withdraw the February 25, 1999 Division Order ("Division Order") and vacate Notice of Violation N99-26-1-1 ("NOV"), which arose from the Division Order. The Division's withdrawal of the Division Order will also result in the vacation of Horizon's appeal challenging the Order which is pending before the Board of Oil, Gas & Mining ("Board") as Docket No. 99-001 and scheduled for hearing on May 26, 1999. The Division will issue a new Division Order to reflect the agreement of the parties regarding modification of Horizon's Mining and Reclamation Plan ("MRP"), to be submitted by Horizon to the Division by Friday, May 28, 1999, with the following information:

1. Horizon agrees to update the text of the current MRP to accurately describe the coal conveyance system, rock, waste rock and snow storage areas and clearly show on a map the coal conveyance system and the exterior boundaries of the coal, waste rock and snow storage areas in accordance with R645-301-520 and 521.160.
2. Horizon agrees to define the estimated volume of waste rock for temporary storage at the Horizon Mine site and alternatives for disposal of waste rock which exceeds this estimated tonnage.
3. Horizon agrees to amend the text of Chapter 3 of the MRP, Section 3.3, pages 3-6 and 3-7, to clarify the definitions of "coal," "rocky coal," "high ash coal," "waste rock" and "coal waste materials." Horizon will further

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L.L.P.

Thomas A. Mitchell, Esq.

May 7, 1999

Page 2

clarify its criteria for disposal of waste rock, specifically referencing Mine Safety and Health Administration ("MSHA") standards regarding storage of waste rock in the Horizon Mine workings prior to bringing the waste to the surface, and ASTM standards distinguishing high ash coal from waste rock.

Finally, the Division has agreed to revise the Technical Analysis and Findings for Midterm Review ("Findings"), dated April 23, 1999, to delete any reference to the Division Order and to withdraw the proposed increase in Horizon's reclamation obligation which was based on that Order. Specifically, earthwork haulage costs and dump fees associated with the removal of "high ash/waste material" estimated at \$564,900.00 will be removed from the proposed bond increase. The Division will review Horizon's MRP modification due on Friday, May 28, 1999, which will define the nature of coal waste materials and proposed volumes in considering the adequacy of Horizon's existing reclamation bond.

We appreciate the opportunity to meet with you and the Division on Wednesday, May 12, 1999, at 2:30 p.m. in the Division offices to review this matter. At that time, Horizon will review any remaining issues regarding the proposed bond increase and the Findings. If necessary, the parties may also address any outstanding issues regarding the MRP modification due on Friday, May 28, 1999.

Horizon is in agreement with the above-described terms of settlement. Please let me know immediately if the Division does not accept these terms or if we need further clarification regarding this matter. We look forward to meeting with you on Wednesday afternoon.

Once again, we appreciate your assistance in this matter.

Very truly yours,



Denise A. Drago

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