

**BEFORE THE DIVISION OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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IN THE MATTER OF THE	:	INFORMAL CONFERENCE
HORIZON MINE PERMIT,	:	FINDINGS, CONCLUSIONS
HIDDEN SPLENDOR	:	AND ORDER
RESOURCES, INC., C/007/0020,	:	
CARBON COUNTY, UTAH	:	

CAUSE NO. C/007/0020

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On November 19, 2004, the Division of Oil, Gas and Mining ("Division") held an Informal Conference as provided for by R645-300-123 Utah Administrative Code in response to the written request for a conference filed by Steve Stamatakis and Pete Stamatakis (petitioners) and received by the Division on September 20, 2004, regarding the permit application concerning the Hidden Splendor Resources Inc. (applicant), Horizon Mine, Helper, Utah, Carbon County.

#### ISSUES

The Request for an informal hearing identified as its objections the following items that were considered the issues to be addressed by the conference: the contract for access; reclamation on the water wells; subsidence monitoring over the panels on the creek; the plan to mitigate or replace the water on top of the mountain; water monitoring; and bonding.

#### PARTIES

The following individuals attended:

Presiding:	Lowell P. Braxton Deputy Director Department of Natural Resources
Petitioner:	Steve Stamatakis Pete Stamatakis
Applicant:	Alexander H. Walker and Cecil Ann Walker Hidden Splendor Resources Inc.

Notwithstanding the informal nature of the conference, the petitioner was represented by Dustin Heugly, Esq., and the Applicant, by Alexander H. Walker, Esq.

A transcript of the conference was made by Scott M. Knight, RPR, Thacker and Co. A list of persons attending the Informal Conference is included with the transcript.

## **RULINGS ON INITIAL OBJECTIONS**

At the commencement of the conference the Petitioner restated the need to see the current mine plan, the subsidence (monitoring) plan, the mine maps and the water monitoring plan (see transcript, page 4) and the stream buffer zone plans (transcript, p 5). The conference officer noted these were a matter of public record, and questioned the need for an Informal Conference given that the petitioner had not reviewed the plan prior to the conference. The conference officer offered Petitioner a 30-day opportunity to review the Mining and Reclamation plan with the Informal Conference to be continued during that period. Mr. Walker noted the Applicant's objection to a continuance, citing that the timing of their mining plan would be impacted by the delay. After discussion, Mr. Walker agreed to summarize where Petitioner's concerns were addressed.

## **FINDINGS OF FACT**

Based on the testimony and other information provided by the Petitioner and Applicant in connection with this Informal Conference, and on information in the files of the Division, the following Findings and Conclusions were made.

1. Publication in the Price Sun Advocate between July 27, 2004 and August 17, 2004, provided an opportunity for Petitioner to request an Informal Conference to object to, or provide comments to the Hidden Splendor Resources, Inc.'s Horizon Mine's application to expand its mining operation into a portion of a new federal lease.
2. The request for the Informal Conference was appropriate and the receipt on September 20, 2004 was timely.
3. Notice of the Informal Conference was appropriately was mailed to the parties and others with interest as noted on the certificate of mailing on September 30, 2004 and Notice of the Informal Conference was published in the Sun Advocate in Price, Utah on October 7, 2004.
4. The Informal Conference was held as scheduled and noticed on November 19<sup>th</sup>, 2004 in Conference Room 1010, Department of Natural Resources Building.
5. A written Response Memorandum was filed by the Applicant and was accepted as timely and was reviewed by the Hearing Officer. In summary, the Response of the Applicant noted that the issues raised by the Request for hearing were covered by Chapter 7 of the Mining and Reclamation plan, Hydrology, and by Chapter 3, Subsidence.
6. Mary Ann Wright, Acting Division Director, in response to inquiry from the Hearing Officer noted that the Utah Coal Regulatory Program requires a liability insurance policy to cover the contingency of subsidence damage.

7. Mr. Heugly noted that his clients wanted assurances that no adverse subsidence effects would accrue from the mining activity contemplated in the plan. A discussion of the overburden thicknesses anticipated in the current plan and anticipated subsidence effects followed.

8. The Petitioners raised the issue of impacts to surface and ground waters attendant to mining, and when asked to raise issues specific to the current plan, Petitioners responded that they had not seen the plan. Petitioner asked for specifics from the Mining and Reclamation Plan, re water replacement.

9. Acting Director Wright noted that the current plan was deficient with respect to water replacement, and the operator had been ordered to provide the requisite specificity in that regard. Mr. Heugly reserved an objection to the water replacement aspects of the Mining and Reclamation Plan pending submission of the information.

10. The Petitioners raised objections to the mining induced subsidence in or adjacent to stream buffer zones, and when it became apparent that the Petitioners had not reviewed the Mining and Reclamation Plan, and hence could not formulate objections specific to the plan, Acting Director Wright asked Wayne Western to provide information regarding the status of the Subsidence Monitoring portion of the Mining and Reclamation Plan.

11. Mr. Western reported that Applicant's subsidence monitoring plan was deficient in that insufficient data existed to support a finding that mining induced "subsidence has caused water loss". December 13, 2004 was the date established for Applicant's response to this deficiency. Mr. Heugly reserved the right to an objection to any determination related to any of the inadequacies.

12. The Conference Officer asked Mr. Western to cite the permit deficiencies that the Division was requiring the Applicant to address.

The deficiencies as identified by Mr. Western are as follows:

R645-301-525.100, -525.130, -525.300, - 728.333. The PHC must address the possible effects that subsidence will create on the bonding faults and graben and resultant potential impact both on and off the permit area.

R645-301-525.120, -525.248, -525.500. The permittee needs to add a discussion on the potential for [the] damage to the private unpaved roads adjacent to Beaver Creek, in Sand Gulch, and in an unnamed side canyon to Jump Creek that could be affected by subsidence, and formulate a plan to repair any damage that results in impact, loss of use, or material damage to these roads.

R645-301-525.240, -623.300, -724.310. The permittee needs to show the relationship of the existing and projected mine workings and projected angle of draw to the bounding faults of the graben on Plate 3-3 or another appropriate map.

R545-301-525.290, HSR must provide the following information in the proposed amendment: (1) The reference used to determine the 35-degree angle of draw; (2) a map with the subsidence area boundaries; (3) the reason why orienting the panels perpendicular to Beaver Creek would minimize subsidence damage, and (4) protection and mitigation plans for the roads within the subsidence zone.

R645-301-525.440. At a minimum, HSR must (1) establish a subsidence monitoring program that will establish the angle of draw for the area; (2) subside a monitoring station each year that retreat mining occurs; and (3) conduct a land survey over each panel no sooner than six months after the panel was mined out but no more than one year after. The land survey must include critical areas such as areas of maximum tension and compression.

R645-301-525.480, -525, -731.530. The permittee needs to add a plan to promptly replace contaminated, diminished, or interrupted water supplies.

R645-301-525.490, HSR must address the specific methods that they will use to replace the loss of state – appropriated water. In addition, HSR must remove the comment from the MRP about waiting until after mining ceases before they replace...water.

13. The Conference Officer asked the applicant to move the copy of the current Mining and Reclamation Permit application that had been housed in the Carbon County Courthouse during the public comment period to the Division's Price Field Office. Mr. Walker agreed to do this.

14. The Applicant and Petitioner reached a stipulation to resolve the issues raised by the hearing request as follows:

Petitioners agree to withdraw all of their objections that have been filed to the Permit Application, provided that the Petitioners may continue to consult with the Price Field Office or the Division of Gas, Oil & Mining in regard to the deficiencies and subsidence points and to make recommendations to the Division of Oil, Gas & Mining.

11. Based on the Stipulation of the parties the Informal Conference was terminated.

12. Consistent with the Stipulation and based on the prior finding the Hearing Officer asked that materials related to the resolution of the above noted permit deficiencies be available for Petitioner's review in the Division's Price Field Office.

13. The Division of Oil, Gas and Mining had identified deficiencies in Applicant's Permit Application Package, and stipulated a time for materials addressing these deficiencies to be submitted to the Division.

### **CONCLUSIONS OF LAW**

1. For issues not identified in the Informal Conference, the Petitioner has exhausted the opportunity for an Informal Conference.

2. Petitioner and Applicant's Stipulation for withdrawal of objections in the Informal Conference precludes any formal appeal of those matters that were the subject of the Informal Conference subject to the terms of the Stipulation and subject to subsequent review of the application as provided by the Stipulation of the parties.

3. Except as otherwise provided herein, the rights to appeal of these Findings and Order are governed by the Rules at R645-300-123 Utah Administrative Code.

4. The Division shall proceed with the review of the Application and shall not be prohibited by these Findings and Order from the full evaluation and review of the Application.

### ORDER

NOW THEREFORE, it is ordered that:

1. The Applicant shall provide materials related to permit deficiencies identified by the Division in the timeframes stipulated by the Division, unless relieved of that obligation in writing by the Division.

2. When the Division has found that the permit deficiencies identified in the Informal Conference have been addressed in a complete and technically adequate manner, the Division shall provide written notice of this to Petitioner.

3. When Petitioner has been advised by the Division that permit deficiencies identified in the Informal Conference are complete and adequately addressed, Petitioner may request an Informal Conference within 30 days of that notice in accordance with the terms of the Stipulation, to withdraw the objections of the Petitioners.

SO DETERMINED AND ORDERED this 23<sup>rd</sup> day of December, 2004

  
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Lowell P. Braxton, Deputy Director  
Department of Natural Resources  
State of Utah

vs  
cc:

Mark. Mesch Acting Associate Director, Mining  
Mary Ann. Wright Acting Director  
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## CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF INFORMAL CONFERENCE for Cause No. C/007/020 to be mailed by certified mail, postage prepaid, on the 23<sup>rd</sup> day of December 2004 the following:

Steve Stamatakis  
2676 West Gordon Creek Road  
Price, Utah 84501

Pete Stamatakis  
1111 South 450 West  
Price Utah, 84501

Alexander H. Walker III  
Hidden Splendor Resources, Inc.  
57 West 200 South, Suite 400  
Salt Lake City, Utah 84101



Vickie Southwick  
Executive Secretary

vs

cc: Wayne Hedberg  
Pamela Grubaugh-Littig  
Lowell P. Braxton

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 ALEXANDER H. WALKER III  
 HIDDEN SPLENDOR RESOURCES, INC.  
 17 WEST 200 SOUTH, SUITE 400  
 SALT LAKE CITY, UTAH 84101  
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 2676 WEST GORDON CREEK ROAD  
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