0022

Norman H. Bangerter
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

Mine file
D. Waddock
R. Hordon
J. Helfrich
LAS

April 19, 1990

Mr. Duane R. Smith, Pool and Smith
Prowswood Plaza, Suite 306
4885 South 900 East
Salt Lake City, Utah 84117

Dear Mr. Smith:

Re: Jack Otani, Request for Formal Hearing, North American Equities, Request for Formal Public Hearing, Blazon #1 Mine, ACT/007/021. Folder #3, Carbon County, Utah

This letter will confirm our telephone conversation yesterday with regard to your request for formal hearing before the Board of Oil, Gas and Mining. As we discussed, your letter serves as a request for formal hearing and meets the deadline for such a request. However, you are required to file a Request for Agency Action (Petition) in accordance with the procedural rules of the Board by May 10, 1990. This matter would then be heard at the June 28, 1990 Hearing.

If you have any questions please feel free to call me.

Sincerely,

Marjorie L. Anderson

Marjorie L. Anderson
Secretary of the Board

bld
cc: William Prince, Holme Roberts and Owens

WADNOT1/18

an equal opportunity employer

POOLE & SMITH
ATTORNEYS AT LAW

DENNIS K. POOLE, P.C.
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PROWSWOOD PLAZA, SUITE 306
4885 SOUTH 900 EAST
SALT LAKE CITY, UTAH 84117
TELEPHONE (801) 263-3344
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RECEIVED
APR 18 1990
DIV. OIL, GAS, MINING

April 18, 1990

HAND-DELIVERED

Lowell P. Braxton
Associate Director, Mining
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

Re: Request for Formal Public Hearing, North American Equities, Blazon #1 Mine, ACT/007/021. Folder #3, Carbon County, Utah.

Dear Mr. Braxton:

You will recall that we represent Mr. Jack Otani with respect to the above-referenced matter. You will further recall that a Request for Informal Hearing was made to your office and an Informal hearing held. You will further recall that decision on that Informal Hearing was recently issued. We have also understood, throughout this process, that a formal public hearing could be requested after the Informal Conference.

Accordingly, and in accordance with UMC 807.11(g), please consider this a Request for a Public Hearing on the reasons for the decision handed down pursuant to Informal Conference. To the extent applicable, this Request for Public Hearing is also made in accordance with UMC 800.40 paragraphs F and G.

The grounds for this request and the objection of the landowner, Mr. Otani, to the decision of the Informal Conference remain the same as originally indicated when the Informal Conference was requested. If there is a need to restate these objections or to set them forth more specifically, we will be happy to do so. For clarity purposes, the letters which formed

the basis of Mr. Otani's Complaint, and which form the basis for the present request, are attached hereto and incorporated herein by reference.

Our intent with this letter is to exercise our right to a public hearing in accordance with the Rules of the Utah Division of Oil, Gas and Mining. Please advise us as to the date, time and place that such hearing will be held.

Very truly yours,

DUANE R. SMITH

DRS/asr

Enclosures

cc: Jack Otani
Keith Chiara

Jack Otani
Star Route
Clear Creek Box 555
Helper, Utah 84526

RECEIVED
APR 03 1989

March 20, 1989

Mr. Randy Harden, Engineer
State of Utah Natural Resources
Oil, Gas, and Mining
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Dear Mr. Harden

I, as the land owner did not have any voice in the so called moderate changes in the reclamation plans, so, I am writing this letter as a concerned citizen.

I wish to bring to your attention several deficiencies in the reclamation of the Blazon mine site in Clear Creek, Utah. I am also sending you a separate letter dealing with deficiencies on the lower pad.

1. Too much of the high wall on the south end of the portal pad was left exposed. Thus, the land is not following the original contours of the mountain. Furthermore, the exposed face keeps caving off causing more erosion.

2. There is insufficient cover material. In places where there should be a full two feet of cover material there is considerably less than two feet of cover material. Furthermore, the cover material is of very poor quality.

Mud Creek

3. The Little Snyder drainage is insufficient. The original plan called for a four foot culvert. After the hydrological study, the plan was changed. A two foot culvert with an emergency spill way, which allows water to run over the road surface, was installed.

The four foot culvert would have handled four times the volume of the two foot culvert. This would have eliminated the need for the spill way, which will cause problems with the road if it is ever needed. A four foot culvert should have been installed. Otherwise, if the hydrological study is truly accurate what is the need for the spill way in the first place?

4. The straw used for mulch contained morning glory, which is a noxious weed. There were sufficient quantities of morning glory for it to have been found on all exposed surfaces of all exposed bales of straw. Once this weed takes root it is almost impossible to get rid of it.

5. Mine spoilage material was used on the north side of the Little Snyder drainage. This area was not designated for spoilage material and no spoilage material was supposed to be used there.

6. The restoration after the seven foot culvert was removed from the stream does not conform nor near resemble the original stream bed. In fact, the water was passing through under the rocks and the water was not visible.

These deficiencies must be corrected for the location to be reclaimed properly.

Thank you.

Sincerely

Jack Otani

cc: Division of Oil Gas & Mining
Office of Surface Mining
Duane R. Smith
Kieth Chiara

Jack Otani
Star Route
Clear Creek, Box 555
Helper, Utah 845126

October 03, 1989

State of Utah
Department of Natural Resources
Division of Oil,Gas & Mining
335 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180

Dear Susan Linner
Permit Supervisor

In regards to Reclamation Bond, Blazon #1 Mine, INA/007/021, Folder #2 & #4, Carbon County, Utah
North American Equities has applied for bond release and I am making further protests on their failure to properly reclaim the site.

On the citizen's complaint letter of March 20, 1989 none of the complaints have been corrected.

Further Complaints are:

01. Spacing of trash rack in Little Snyder is to wide and is hazardous to person and wild life as well.

02. Overflow from spillway would not be contained within the ditch passing around the concrete pad. As the cross sectional area of spillway is larger than ditch cross section. Since the ditch can not handle the water, the water will breach the bank of the lower pad and no erosion control has been made to portect the pad.

03. As stated in citizen's complaint on Item 6 water is still passing under rocks and has trapped several trout above the culvert removal area, also the water is passing under rocks below culvert A and between culvert A & B.

04. Water well has not been sealed as required by regulations for abandoned drill holes.

05. Trash allowed to be left on slope.

06. What are logs on slope for___and where were they obtained?

07. Some contaminated straw still on site.

08. Ditch along roadway not adequate as it has breached near gate.

09. Material placed at top of slopes on road to substation & water tank was not compacted and has slumped or set down (natural compaction) causing a potential for upper slope failures.

10. The down cast over filled slope below mine portals has an adequate amount of material to fill the highwall left exposed.

11. Why was the natural or revegetated slope of the sed_pond covered with junk materials when top soil was available right there?

12. Trees above the highwall need to be harvested to protect slope. Wind shake factor was never calculated obviously!!

13. The top soil that slid off the slope where the logs are staked was not replaced. The Division of Oil, Gas & Mining insisted that the top soil was neccessary when I wanted the top soil saved for the bottom pad. If it was neccessary then it should be neccessary now!!

14. There is no evidence of creek ripairan habitate species planted. Apparently its not neccessary, as the channel change thru the property does not look like natural embankments.

Sincerely

Jack Otani

CERTIFICATE OF DELIVERY

I certify tha I hand-delivered a true and correct original of the foregoing letter to Susan C. Linner, Permit Supervisor for the Division of Oil, Gas & Mining for the state of Utah, on the _____ day of October, 1989, at Clear Creek Utah.

received 10/3/89
Susan Linner

_____
Jack Otani

Jack Otani
Star Route
Clear Creek, Box 555
Helper, Utah 845126

October 19, 1989

State of Utah
Department of Natural Resources
Division of Oil,Gas & Mining
335 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180

Dear Randy Harden
Engineer

I am adding futher protest on the reclamation preformed on the Blazon mine site.

The protests are as follows:

01. In the original reclamation plan netting was to be used on all steep slopes. Since they did not use the netting there is no vegetation on any of the steep slopes.

02. The Little Snyder drop inlet and slopes on both north and south sides of Little Snyder are encroaching on the lower pad area.

03. The road highwall on the west side of Mud Creek should be recontoured to the original slope. If not it should be revegetated with the aid of erosion control netting.

04. Since Division of Oil,Gas & Mining tested this slope and determuned that the top soil is not necessary to revegetate the slope the Division Of Oil , Gas & Mining should compensate me for the top soil since they used the top soil against my wishes. Division of Oil,Gas & Mining insisted that the top soil had to be used on upper pad when it was actually harvested from lower pad area.

05. The mine closed in the early part of 1982. According to the bond release notice it took only eight days to complete the reclamation. Therefore I think the reclamation should have been done years ago. I hold the Division of Oil,Gas & Mining responsible for not pursuing the issue more diligently.

06. In view of the Division of Oil,Gas & Mining position regarding the reclamation,I will not assume any liabilities of the reclamation work done on the Blazon mine site.

Sincerely

Jack Otani

cc:
Henry Austin
Keith Chiara
Duane R. Smith

POOLE & SMITH
ATTORNEYS AT LAW

DENNIS K. POOLE, P.C.
DUANE R. SMITH, P.C.
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November 3, 1989

HAND DELIVERED

State of Utah
Department of Natural Resources
Division of Oil, Gas & Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Re: Permit No. INA/007/021
Permittee: North American Equities Ltd.
Permit Approval Date: October 4, 1985

Gentlemen:

In response to the "Notice of Application for Bond Release" sent in connection with the above-referenced permit, be advised that this office is retained as counsel for Mr. Jack Otani, who is the owner of the property which is the subject of the reclamation referenced above. In accordance with the various notices received regarding the request of North American Equities Ltd. for a partial release of its performance bond, Mr. Otani herewith objects to the release of any portion of the bond and requests in connection with UMC 807.11(c) that an informal conference be held with the division in accordance with the provisions of that rule. We understand that Notice of an Informal Conference must be published at least two weeks before the date of the conference and that the informal conference must be held at or near the site of the property within 30 days from the date of notice.

We further understand that following such a conference, Mr. Otani, as an affected person, may request a public hearing.

The purpose for this objection and request for informal conference is the failure of the operator to comply with either the original reclamation plan or the amended reclamation plan. These concerns have been detailed to the Division of Oil, Gas & Mining in letters from Mr. Otani dated March 20, 1989 and October 3, 1989. None of those concerns have, as yet, been adequately addressed or corrected. In addition to those concerns, Mr. Otani

has the following complaints:

1. In the original reclamation plan, netting was to be used on all steep slopes. No netting was used and vegetation has failed to grow on the steep slopes.

2. The Little Snyder drop inlet as well as the slopes on both north and south sides of Little Snyder are encroaching on the lower pad area.

3. The road highwall on the west side of Mud Creek should be recontoured to the original slope. If not, it should be revegetated with the aid of erosion control netting.

4. The original reclamation plan called for the operator to place top soil on the slope areas. It is obvious that the top soil was not used appropriately and the owner should be compensated therefore.

5. The Bond Release Notice indicates that many of the reclamation items took only 8 days to complete. This is a total falsehood which should be corrected.

Again, Mr. Otani continues to claim the problems which were contained in the earlier letters. Those letters outlined substantial problems which the Division has inspected but has not required that the operator correct.

We will look forward to hearing from you regarding our request for informal conference in accordance with the regulations of the Division. For convenience, any correspondence regarding this matter may be directed to my attention.

Very truly yours,

DUANE R. SMITH

DRS/ss

cc: Bill Prince
Jack Otani
Keith Chiara