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December 30, 1993

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HAND DELIVERED

Joseph C. Helfrich  
Assessment Officer  
Division of Oil, Gas & Mining  
State of Utah  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203

Re: Sunnyside Cogeneration Associates' Permit No. ACT/007/035  
Proposed Assessments for State Violation No. N93-13-1-1, and  
and State Violation No. N93-13-2-1

Dear Joe:

Pursuant to your letters and proposed assessments in the matters set forth above, dated November 30, 1993, Sunnyside Cogeneration Associates ("SCA") hereby informally appeals the fact of the above violations and/or the proposed penalty assessments for those violations pursuant to Utah Admin. Code R645-401-700.

SCA states as follows:

State Violation No. N93-13-1-1

This NOV was issued by the Division of Oil, Gas and Mining ("DOGM") on October 15, 1993 for failure to describe surface coal mining operations and activities related to surface coal mining activities. In addition, the NOV stated that SCA failed to permit activities conducted in connection with surface coal mining operations.

Basically, DOGM thought that some of the areas adjacent to the permit area located on SCA's power plant site, including roads and crushing units for the power plant, should be included within the permit. DOGM also wanted SCA to describe these activities.

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On October 7, 1993, I sent a letter to Lowell Braxton describing this situation. On December 2, 1993, I sent a letter to Jim Carter regarding this situation. On December 8, 1993, EWP filed for a permit change to include the description of the activities and maintain that these activities should not be part of the SCA permit area.

Although I believe DOGM is wrong on this issue, SCA is filing to amend its permit to include the loop road in the permit boundaries. Every power plant in Utah has crushing units and coal activities on site unregulated from DOGM. SCA just happens to have a more compressed situation.

State Violation No. N93-13-2-1

This NOV was issued by DOGM as an umbrella NOV because not all of the conditions of the permit had been satisfied. SCA is diligently striving to comply with 20 very difficult conditions in its permit. DOGM's response to the fact that SCA has not met its deadlines is to add to its administrative burdens by issuing another NOV. In some circumstances, DOGM failed to timely respond to SCA's proposals thereby making it impossible to comply in the time line established. Another condition required SCA to assist the Division of Wildlife Resources ("DWR") to conduct a fish study. Suddenly in the spring, DWR decided that SCA should perform the study. SCA contested this permit change. It was summer before any decision was made. SCA performed the fish study in the fall. SCA agreed to perform the study next spring. In DOGM's analysis, SCA is in violation.

The State of Utah should be thrilled that SCA is out there using an environmentally troublesome coal pile to produce electricity. SCA is also spending a great deal of time and money to deal with its reclamation obligation.

Pursuant to the above information, SCA requests an informal conference and/or assessment conference regarding the above issues.

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Thank you for your cooperation in this regard. If you have any questions, please feel free to contact me.

Very truly yours,

CALLISTER, DUNCAN & NEBEKER

A handwritten signature in cursive script, appearing to read "Brian W. Burnett", with a long horizontal flourish extending to the right.

Brian W. Burnett  
Attorneys for Sunnyside Cogeneration  
Associates

cc: David Pearce  
Alane Boyd