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August 24, 1993

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VIA FACSIMILE

James W. Carter
Director, Division of Oil, Gas &
Mining
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Re: Sunnyside Cogeneration Associates-Permit No. ACT/007/035

Dear Jim:

We appreciated the opportunity to meet with you on August 18th to discuss the above referenced permit (Permit) and related issues.

In a letter dated August 16, 1993, Sunnyside Coal Company's (SCC) counsel requested that the Division of Oil, Gas and Mining (DOGMA) reconsider the conclusions reached in its August 6th letter regarding the 1987 Operating Agreement.

SCC notes that certain provisions set forth in the deed to the Sunnyside Cogeneration Associates (SCA) property as well as in the Operating Agreement relate to Permit responsibilities. However, SCC neglected to note that the Operating Agreement requires that the parties renegotiate the Operating Agreement and that SCC's right to deposit waste coal on the waste coal pile had some restrictions, namely that a mutually acceptable operating agreement be in place, or in the absence of such operating agreement, that the use be allowed on terms reasonably serving the interests of both parties. The 1987 Operating Agreement has not been renegotiated, is not acceptable to SCA and does not serve the interests of both parties.

Utah Admin. Code R645-301-117.300 is the regulation that deals with the facilities that may be shared by two or more operators. The language set forth in the regulation is defined by the terms "may" and "if" regarding the inclusion of an agreement between the parties. This language is not mandatory. However, the regulation also states that,

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In accordance with R645-301-800, each permittee will bond the facility or structure unless the permittees sharing it agree to some other arrangement for assuming their respective responsibilities.

Accordingly, SCC should also be required to bond for SCA's permit area because no agreement exists between the parties and SCC continues to add to SCA's reclamation obligation.

Therefore, SCA respectfully requests that DOGM reject SCC's request to reconsider the conclusions reached in your August 6, 1993 letter and that DOGM continue to retain a dual permit responsibility on the SCA waste coal pile.

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



Brian W. Burnett

cc: David Pearce
Denise Drago