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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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June 7, 1993

To: James W. Carter, Director

From: Pamela Grubaugh-Littig, Permit Supervisor

Re: Legal Assistance Requested, Proposed Operating Agreement Between Sunnyside Coal Company and Sunnyside Cogeneration Associates, ACT/007/007 and ACT/007/035, Folder #2, Carbon County, Utah

The Sunnyside Cogeneration Associates permit for the Sunnyside Refuse and Slurry was issued February 4, 1993. One of the conditions of that permit issuance was "Within ten days, but no later than April 30, 1993, of signing the Operating Agreement between Sunnyside Cogeneration Associates (SCA) and Sunnyside Coal Company (SCC) for the operational and reclamation responsibilities for the two contiguous permit areas under the Utah Coal Program, the permittee must submit, for inclusion in the PAP, a copy of the Operating Agreement between SCA and SCC."

This Operating Agreement is based on R645-301-117.300, which requires, "The plans of a facility or structure that is to be shared by two or more separately permitted coal mining and reclamation operations may be included in one permit application and referenced in the other application. In accordance with R645-301-800, each permittee will bond the facility or structure unless the permittees sharing it agree to another arrangement for assuming their respective responsibilities. If such agreement is reached, then the application will include a copy of the agreement between or among the parties setting forth the respective bonding responsibilities of each part for the facility or structure. The agreement will demonstrate to the satisfaction of the Division that all responsibilities under the R645 Rules for the facility or structure will be met."

Violation N93-40-4-1 was issued May 6, 1993, for failure to have an Operating Agreement in place. This NOV has been extended several times, the most recent extension was to June 15, 1993.

Legal assistance is requested to review the Operating Agreement for compliance with the above-noted regulation. As stated in the shared facilities regulation (R645-301-117.300), there are basically two requirements: The bonding requirement and the performance standards requirement. Bonding is relatively straightforward and has been undertaken by SCA in the SCA permit area. (This regulation does not require double bonding of an area.) However, to assure that the **responsibilities for the performance standards (645 Rules) are being met by both parties** may require a review of the Operating Agreement and legal assistance would be helpful.

Additionally, there are two other issues relative to the Operating Agreement and legal assistance is requested: 1) To review to whom violations would be written at the site, i.e., write them according to the inspection that is being conducted (this has been the practice to date) or write them against both entities; and 2) how to proceed with the amendment to remove SCC from the SCA permit area.

I appreciate your consideration of this request.

cc: L. Braxton
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