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

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December 8, 1993

Mr. Fred Finlinson, Resident Agent
Sunnyside Cogeneration Associates
Callister, Duncan and Nebeker
Kennecott Building, Suite 800
10 East South Temple
Salt Lake City, Utah 84133

Re: Violations N93-40-5-9 No. 1 of 9, N93-32-5-2 No. 1 of 2 and No. 2 of 2, and N93-13-1-1, Requests for Extension of Time, Sunnyside Cogeneration Associates, Refuse and Slurry, ACT/007/035, Folder #5, Carbon County, Utah

Dear Mr. Finlinson:

This letter is in response to your letters dated December 2, 1993 requesting an extension in the abatement time to the above reference violations. Considerations of those requests are as follows:

Violation N93-13-1-1 requires SCA to identify, describe and locate all surface coal mining and reclamation activities by the submittal of adequate permit changes to the plan which effectively describes and/or incorporates those structures into the permit and affected area. Those facilities included the truck dump access road, truck dump, waste coal storage, crusher and adjacent ancillary facilities and structures which are outside the currently approved permit area. The violation was written to SCA on October 15, 1993 and received by certified mail by SCA on October 19, 1993. The original abatement date for the submittal of the permit changes was November 5, 1993. The violation was subsequently modified by the Division and the abatement date was extended initially to November 16, 1993 and subsequently to November 30, 1993.

SCA's letter dated December 2, 1993 cites various circumstances and arguments in regard to the fact of the violation and requests an informal assessment conference to review the fact of violation N93-13-1-1. However, SCA's letter does not request additional time to submit permit changes for abatement of the violation as written. No submittal was received by the Division proposing changes to the plan in accordance with the violation as written. Consequently, SCA has failed to meet the abatement requirements of violation N93-13-1-1 as written and modified and cessation order C93-13-1-1 has been issued for failure to comply with the abatement requirements of violation N93-13-1-1.

Although the arguments described in the December 2, 1993 letter to the Division may have some merit as to whether or not the structures and facilities in question should be within the permit area, SCA has failed to **submit a permit change** proposal enumerating their reasoning for exclusion or inclusion of the facilities from the permit area. The violation clearly requires that SCA must



Page 2
ACT/007/035
December 8, 1993

submit a permit change request to address these facilities. The second part of the abatement of this violation requires an evaluation by the Division as to whether or not the proposed changes meet the regulatory requirements. Until such time as a permit change proposal is submitted by SCA, the Division cannot make a determination as to whether or not SCA is in compliance with the regulations cited in the violation. Cessation order C93-13-1-1 shall be in effect until such time as SCA submits a permit change proposal for the Division's evaluation.

A letter dated November 30, 1993 and a second letter also dated December 2, 1993 were submitted by SCA regarding violations N93-40-5-9 No. 1 of 9 and 8 of 9, and N93-32-5-2 No. 1 and 2 of 2. Information regarding N93-40-5-9 No. 8 of 9 has been submitted to the Division and is under review for abatement. Violations N93-40-5-9 No. 9 of 9, N93-40-5-2 No. 2 of 2 and N93-40-6-4 have all been modified to extend the abatement dates to December 15, 1993 as per operator request.

Information presented in regard to N93-40-5-2 No. 1 of 2 requested additional time based on recent inquiries with contractors regarding the removal of the acid-forming material from the Old Coarse Refuse Road which indicated that removal of these materials would take approximately 3 months. Based on a site inspection on November 30, 1993 by Bill Malencik, no physical work had been accomplished at the site regarding the removal of the materials from the road. Since issuance of the violation on September 21, 1993 no diligent effort on the part of SCA has been observed in order to abate this violation. Consequently, cessation order C93-13-2-1 was written for failure to abate the requirements of violation N93-32-5-2 No. 1 of 2.

Although a considerable amount of informal discussion has transpired in regard to the abatement of the above violations, SCA has failed to meet the procedural requirements and the terms and the conditions of violations N93-13-1-1 and N93-32-5-2 No. 1 of 2 and failure to abate cessation orders have been written in regard to both of these violations. SCA must make an effort to abate violations in a diligent and timely manner or seek relief in a manner as prescribed under the Utah Coal Rules. Refer to the instructions provided on the reverse side of the Notice of Violation should you require further clarification.

Questions regarding procedures for the referenced enforcement actions may be directed to Joe Helfrich at 538-5340.

Sincerely,



J. Randall Harden, P.E.

cc: L. Braxton
P. Grubaugh-Littig
J. Helfrich
B. Malencik (PFO)
SCAVIOL.LTR