

COURTESY COPY

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& McCULLOUGH

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(1906-1995)
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(1924-1998)

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February 28, 2002

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¹ ALSO MEMBER MISSOURI BAR

² ALSO MEMBER CALIFORNIA BAR

³ ALSO MEMBER ILLINOIS BAR

⁴ ALSO MEMBER COLORADO AND WASHINGTON D.C. BARS

⁵ ALSO MEMBER NEW YORK AND DELAWARE BARS

⁶ ALSO MEMBER NEBRASKA BAR

VIA FEDERAL EXPRESS

Scott Azzollini
Frontier Insurance Company in Rehabilitation
195 Lake Louise Marie Road
Rock Hill, NY 12775

Re: Sunnyside Cogeneration Associates - Reclamation Bond - Utah

Dear Scott:

As we discussed, this firm represents Sunnyside Cogeneration Associates ("SCA") who has Reclamation Permit No. C/007/035 ("Permit") with the Utah Division of Oil, Gas & Mining ("DOG M"). Frontier Insurance Company, now known as Frontier Insurance Company in Rehabilitation ("Frontier"), provided DOGM with a surety bond to cover potential reclamation liability relating to the Permit. I have enclosed for your reference copies of Permit documents including the Bonded Area and the Rider and Stipulation increasing the bond amount to \$1,900,000 which were executed by Frontier.

SCA provided Frontier with certain funds that were invested on behalf of SCA to provide security to Frontier for the potential reclamation liability associated with the Permit. This arrangement with SCA is identified as Frontier Bond No. 35790.

SCA has replaced the bond for the Permit with a Pledge and Escrow Agreement dated January 10, 2002 between SCA, DOGM and Wells Fargo Bank. SCA placed funds into an escrow account with Wells Fargo Bank sufficient to cover SCA's reclamation obligation for the Permit. The Frontier bond is no longer necessary and SCA needs to have the Frontier bond released by DOGM and the money which was placed in escrow for Frontier returned to SCA.

*C/007/035
Incoming
Copy PAM
(reter only)*

Scott Azzollini
February 28, 2002
Page 2

You requested that I provide you with information where you need to send your request that the Frontier bond be released. Please address your correspondence to:

Pam Grubaugh-Littig
Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, UT 84114-5801
Telephone: 801-538-5268
Facsimile: 801-359-3940

Please also provide me a copy of your correspondence so that I can follow-up on this request. After you obtain a release of the bond from DOGM, you agreed to send me the forms necessary to return to SCA the funds that are currently being held in connection with Frontier's bond associated with the Permit.

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

Sincerely,

CALLISTER NEBEKER & MCCULLOUGH



Brian W. Burnett

BWB:ias

Enclosures

cc: Pam Grubaugh-Littig
Jim Willey
Karen Dolezal
Jeff McCormack
Rob McLeese
Greg Lawyer
Kendall Reed
Randy Scott
Rusty Netz

EXHIBIT "A"

BONDED AREA

In accordance with the RECLAMATION AGREEMENT, the PERMITTEE intends to conduct coal mining and reclamation activities on or within the PERMIT AREA as shown on Plate 1-1.

In accordance with R645-301-820.111, the PERFORMANCE BOND, will cover the entire permit area, or an identified increment of land within the permit area. This increment has been identified as the BONDED AREA, and includes the "affected area". In accordance with R645-301-521.163, the area of land for which a PERFORMANCE BOND will be posted is shown on Plate 1-1.

Total acres within the approved PERMIT AREA 304.85.

Total acres of BONDED AREA 304.85.

Legal Description for the BONDED AREA is:

See attached legal description

This BONDED AREA is covered by the reclamation surety provided in Exhibit B.

IN WITNESS WHEREOF the Surety has hereunto set its signature and seal this 7th day of September, 1994.

Frontier Insurance Company
SURETY

By: 
Robert E. Shaw, Jr.

Title: Attorney-In-Fact

The permit is located in Carbon County, Utah as follows:

Beginning at a point which is North 2810.58 feet and East 11.15 feet from the Southeast Corner of Section 6, Township 15 South, Range 14 East of the Salt Lake Base and Meridian and running thence South 00°13'04" West, 174.18 feet along the east line of Section 6, to the East 1/4 Sec 6; thence South 00°13'39" West, 514.28 feet; thence running South 43°56'13" East, 237.61 Feet; thence running South 37°48'02" West, 271.53 feet to a metal fence post; thence South 00°13'39" West, 918.48 feet along the east section line of Section 6; thence South 00°13'37" West 817.99 feet to the Southeast Corner of Section 6 which is a brass cap; thence South 00°15'54" West, 1322.37 feet along the east line of said Section 7 to the southeast corner of the NE1/4 NE1/4 of said Section 7; thence South 89°52'59" West, 2656.89 feet along the south line of the N1/2 NE1/4 of the said Section 7 to the NW1/4 NE1/4 of said Section 7; thence South 00°41'30" West, 664.69 feet along the east line of the SE1/4 NW1/4 of said Section 7 to the southeast corner of the NE1/4 SE1/4 NW1/4 of said Section 7; thence South 89°40'06" West, 2560.98 feet along the south line of the N1/2 S1/2 NW1/4 of said Section 7 to the southwest corner of the NW1/4 SW1/4 NW1/4 of said Section 7; thence North 00°17'17" East, 1984.79 feet along the west section line to the Northwest Corner of Section 7 which is a brass cap; thence North 89°27'59" East, 1253.28 feet along the north line of said Section 7 to the northeast corner of the NW1/4 NW1/4 of said Section 7; thence North 59°40'32" East, 666.58 feet to a metal fence post; thence North 44°13'50" East, 430.53 feet to a roof bolt ; thence North 59°09'24" East 167.86 feet to a metal fence post; thence North 63°51'14" East, 188.19 feet, to a metal fence post; thence North 60°15'06" East, 335.61 feet to a metal fence post; thence North 21°00'31" West, 34.15 feet to a brass post in a barbed wire fence; thence North 14°02'19" East, 166.70 feet; thence North 86°06'57" East 78.29 feet; thence North 39°40'10" East, 186.10 feet; thence North 85°06'24" East, 289.77 feet; thence running easterly along a curve to the right with a radius of 112.84 feet, through an angle of 189°39'41" for a distance of 373.53 feet having a chord that bears South 54°40'23" East, 224.88 feet; thence South 39°50'38" West, 144.16 feet; thence North 81°18'59" East, 646.66 feet along an existing fence line to a roof bolt; thence North 36°41'30" East, 152.85 feet along a fence line to a roof bolt; thence North 10°54'49" West, 189.49 feet to a metal fence post; thence North 00°39'10" West, 254.39 feet to a metal fence post; thence North 10°09'48" West, 315.48 feet to a metal fence post; thence North 06°32'57" West, 232.70 feet to a roof bolt in an existing fence line; thence North 06°32'59" West, 65.24 feet to the south right of way line of a Denver and Rio Grande Railroad as described in a certain deed dated July 29, 1912; thence North 71°27'00" East, 1209.07 feet along the south line of a 50 foot wide right of way for the Denver and Rio Grande Railroad; thence northeasterly along a curve to the left with a radius of 980.07 feet, through an angle of 9°19'41", for a distance of 159.56 feet, having a chord that bears North 66°45'34" East, 159.38 feet to the east line of Section 6, to the point of beginning.

Containing 323.95 Acres more or less.

Less 12.9 Acres for Carbon County Railway Right of Way (located in the Western half of the permit area).

Less 6.2 Acres for Railroad Right of Way (located in the Northeast corner of the permit area).

For a total area of 304.85 Acres more or less.

FRONTIER INSURANCE COMPANY

ROCK HILL, NEW YORK

Rider

To be attached to and form a part of Bond No. 35790 Dated the THIRTIETH day of MARCH, 1994, issued by Frontier Insurance Company, as Surety, on behalf of SUNNYSIDE COGENERATION ASSOCIATES, 20 SOUTH VAN BUREN AVENUE, BARBERTON, OHIO 44203-0351, as Principal, in the penal sum of ONE MILLION, FIVE HUNDRED THOUSAND AND 00/00 Dollars (\$1,500,000.00) and in favor of STATE OF UTAH, DIVISION OF OIL, GAS & MINING, 355 W. NORTH TEMPLE, 3 TRIAD CENTER, SALT LAKE CITY, UTAH 84180-1203, as Obligee.

In consideration of the premium charged for the attached bond, it is hereby agreed that the attached bond be amended as follows:

1. The Bond Amount is hereby increased from ONE MILLION, FIVE HUNDRED THOUSAND AND 00/00 (\$1,500,000.00) to ONE MILLION, NINE HUNDRED THOUSAND AND 00/100 (\$1,900,000.00).

Provided, However, that the attached bond shall be subject to all its agreements, limitations and conditions except as herein expressly modified, and further that the liability of the Surety under the attached bond and the attached bond as amended by this rider shall not be cumulative.

This rider shall become effective as of the FOURTH day of DECEMBER, 1996.

Signed, sealed and dated this FOURTH day of DECEMBER, 1996.

Witness

by

Witness

by

SUNNYSIDE COGENERATION ASSOCIATES

by

FRONTIER INSURANCE COMPANY

by

ROBERT E. SHAW, JR., Attorney-in-Fact

Exhibit "D" - STIPULATION TO REVISE RECLAMATION AGREEMENT

Permit Number: ACT/007/035
Effective Date: _____

COAL
STIPULATION TO REVISE RECLAMATION AGREEMENT
--ooOoo--

This **STIPULATION TO REVISE RECLAMATION AGREEMENT** entered into by and between the **PERMITTEE** and **DIVISION** incorporates the following revisions or changes to the **RECLAMATION AGREEMENT**: (Identify and Describe Revisions Below)

The Reclamation Bond amount has been increased from \$1,500,000.00 to \$1,900,000.00

In accordance with this **STIPULATION TO REVISE RECLAMATION AGREEMENT**, the following Exhibits have been replaced by the **PERMITTEE** and are approved by the **DIVISION**:

- _____ Replace the **RECLAMATION AGREEMENT** in its entirety.
- _____ Replace Exhibit "A" - **SURFACE DISTURBANCE**.
- _____ Replace Exhibit "B" - **BONDING AGREEMENT**.
- _____ Replace Exhibit "C" - **LIABILITY INSURANCE**.

The **BONDING** amount is revised from (\$ 1,500,000.00) to (\$ 1,900,000.00).

The **SURFACE DISTURBANCE** is revised from _____ acres to _____ acres.

The **EXPIRATION DATE** is revised from _____ to _____.

The **LIABILITY INSURANCE** carrier is changed from _____
to _____.

The **AMOUNT** of **INSURANCE** coverage for bodily injury and property damage is changed from (\$ _____) to (\$ _____).

Exhibit "D" - STIPULATION TO REVISE RECLAMATION AGREEMENT

IN WITNESS WHEREOF the PERMITTEE has hereunto set its signature and seal
this 19th day of December, 19 96.

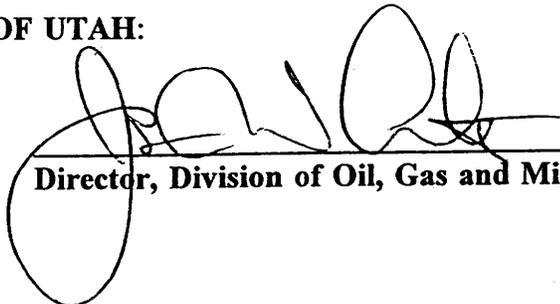
SUNNYSIDE COGENERATION ASSOCIATES

PERMITTEE

By: Walter R. Stark

Title: Authorized Member

ACCEPTED BY THE STATE OF UTAH:



Director, Division of Oil, Gas and Mining

NOTE: An Affidavit of Qualification must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with this Agreement. If the PERMITTEE is a corporation, the Agreement shall be executed by its duly authorized officer.

**AFFIDAVIT OF QUALIFICATION
PERMITTEE
--ooOOoo--**

I, Walter R. Strotz, being first duly sworn under oath, deposes and says that he/~~she~~ is ^{an} ~~the~~ (~~officer or agent~~) Authorized Member of SUNNYSIDE COGENERATION ASSOCIATES; and that he/~~she~~ is duly authorized to execute and deliver the foregoing obligations; and that said PERMITTEE is authorized to execute the same and has complied in all respects with the laws of Utah in reference to commitments, undertakings and obligations herein.

(Signed) Walter R. Strotz - Authorized Member
Name - Position

Subscribed and sworn to before me this 19th day of December, 19 96.

Thomas L. Harnden
Notary Public

THOMAS L. HARNDEN, Attorney-At-Law
Notary Public - State of Ohio
My commission has no expiration date
Sec. 147.03 R. C.

My Commission Expires:

_____, 19 ____.

Attest:

STATE OF Ohio)
COUNTY OF Summit) ss:

**AFFIDAVIT OF QUALIFICATION
SURETY COMPANY**

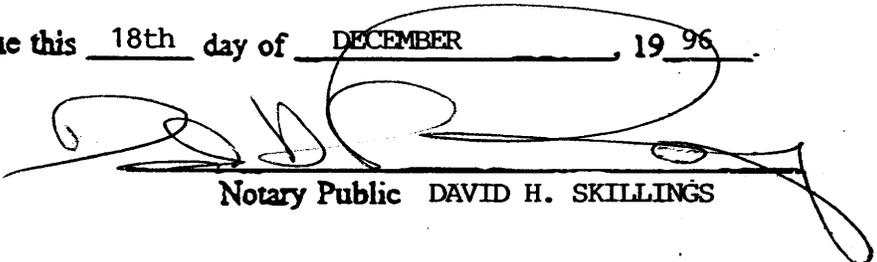
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I, DAVID H. SKILLINGS, being first duly sworn under oath, deposes and says that he/she is the (officer or agent) ATTORNEY-IN-FACT of FRONTIER INSURANCE COMPANY; and that he/she is duly authorized to execute and deliver the foregoing obligations; and that said **SURETY COMPANY** is authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations herein.

(Signed) 

Surety Company Officer - Position
ROBERT E. SHAW, JR.

Subscribed and sworn to before me this 18th day of DECEMBER, 19 96.



Notary Public DAVID H. SKILLINGS

My Commission Expires:

JUNE 28, ~~19~~ 2000

Attest:

STATE OF MAINE)
COUNTY OF CUMBERLAND) ss:

POWER OF ATTORNEY

Know All Men By These Presents: That FRONTIER INSURANCE COMPANY, a New York Corporation, having its principal office in Rock Hill, New York, pursuant to the following resolution, adopted by the Board of Directors of the Corporation on the 4th day of November, 1985:

"RESOLVED, that the Chairman of the Board, the President, or any Vice President be, and hereby is, authorized to appoint Attorneys-in-Fact to represent and act for and on behalf of the Company to execute bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, and to attach thereto the corporate seal of the Company, in the transaction of its surety business;

"RESOLVED, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed with respect to any bond, undertaking, recognizance or other contract of indemnity or writing obligatory in the nature thereof;

"RESOLVED, that any such Attorney-in-Fact delivering a secretarial certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact"

This Power of Attorney is signed and sealed in facsimile under and by the authority of the above Resolution.

DOES HEREBY MAKE, CONSTITUTE AND APPOINT: **DAVID H. SKILLINGS ROBERT E. SHAW, JR A.G. ABBOTT**

of **South Freeport** in the State of **Maine**
its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred in its name, place and stead to sign, execute, acknowledge and deliver in its behalf, and as its act and deed, without power of redelegation, as follows:

Bonds guaranteeing the fidelity of persons holding places of public or private trust; guaranteeing the performance of contracts other than insurance policies; and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings or by law allowed; IN AN AMOUNT NOT TO EXCEED THREE MILLION FIVE HUNDRED THOUSAND (\$3,500,000.00) DOLLARS; and to bind FRONTIER INSURANCE COMPANY thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of FRONTIER INSURANCE COMPANY, and all the acts of said Attorney(s)-in-Fact pursuant to the authority herein given are hereby ratified and confirmed.

In Witness Whereof, FRONTIER INSURANCE COMPANY of Rock Hill, New York, has caused this Power of Attorney to be signed by its President and its Corporate seal to be affixed this **2nd** day of **June**, 19 **94**

FRONTIER INSURANCE COMPANY



BY: *Walter A. Rhulen*
WALTER A. RHULEN, President

State of New York
County of Sullivan ss.:

On this **2nd** day of **June**, 19 **94**, before the subscriber, a Notary Public of the State of New York in and for the County of Sullivan, duly commissioned and qualified, came WALTER A. RHULEN of FRONTIER INSURANCE COMPANY to me personally known to be the individual and officer described herein, and who executed the preceding instrument, and acknowledged the execution of the same, and being by me duly sworn, deposed and said, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of the Company, and the Corporate Seal and signature as an officer were duly affixed and subscribed to the said instrument by the authority and direction of the Corporation, and that the resolution of the Company, referred to in the preceding instrument, is now in force.

In Testimony Whereof, I have hereunto set my hand, and affixed my official seal at Rock Hill, New York, the day and year above written.



Christine I. Lane
CHRISTINE I. LANE
Notary Public State of New York
Sullivan County Clerk's No. 1996
Commission Expires May 2, 1998

CERTIFICATION

I, JOSEPH P. LOUGHLIN, Secretary of FRONTIER INSURANCE COMPANY of Rock Hill, New York, do hereby certify that the foregoing Resolution adopted by the Board of Directors of this Corporation and the Powers of Attorney issued pursuant thereto, are true and correct, and that both the Resolution and the Powers of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the facsimile seal of the corporation this **18th** day of **DECEMBER**, 19 **96**



Joseph P. Loughlin
JOSEPH P. LOUGHLIN, Secretary