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January 16, 2004

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*J. Combs*  
*2/007/0042*  
*Copy 7AM*

Re: Sunnyside Cogeneration Associates – Starpoint Mine Waste Coal Refuse Pile

Dear Kendall:

Enclosed please find a copy of a letter dated January 13, 2004 from the U.S. Department of the Interior – Office of Surface Mining (“OSM”). This letter informs Sunnyside Cogeneration Associates (“SCA”) that OSM has determined that the Starpoint Mine Waste Coal Refuse Pile has no value and therefore is not subject to reclamation fees. Congratulations!

As you know, SCA requested that OSM determine that Abandon Mine Land reclamation fees, referred to as AML fees, are not applicable to the Starpoint Mine Waste Coal Refuse Pile. SCA submitted a request to OSM regarding this issue last year. The AML fees could have amounted to the lesser of 35 cents per ton or 10% of the value of the material per ton.

RECEIVED  
JAN 20 2004  
DIV. OF OIL, GAS & MINING.

Kendall Reed  
January 16, 2004  
Page 2

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

Enclosure

cc: Pam Grubaugh-Littig  
Steve Gross  
Robert Escalante  
Karen Dolezal  
Steve Miller  
Dan Skowronski  
Rob McLeese  
Greg Lawyer  
Randy Scott  
Rusty Netz  
Scott Carlson



## United States Department of the Interior

### OFFICE OF SURFACE MINING

Reclamation and Enforcement

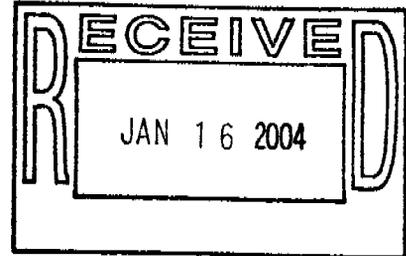
Division of Compliance Management

2677 Regency Road

Lexington, Kentucky 40503

January 13, 2004

Mr. Brian W. Burnett  
CALLISTER NEBEKER & MCCULLOCH  
Attorneys at Law  
Gateway Tower East Suite 900  
10 East South Temple  
Salt Lake City, Utah 84133



Re: Request for No Value/Fee Determination  
Sunnyside Cogeneration Associates  
Starpoint Mine Coal Refuse Pile  
Permit No. C/007/042  
Carbon County, Utah

Dear Mr. Burnett:

This is in response to the correspondence and other data you submitted regarding the applicability of reclamation fees to the coal waste material generated from the Starpoint Mine Coal Refuse Pile to be burned in the waste-coal fired small power production facility operated by Sunnyside Cogeneration Associates (SCA).

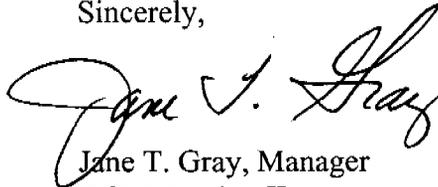
According to the information you have provided, it is our understanding that:

1. the material was or is the by-product of the coal preparation process, and has been found by the Federal Energy Regulatory Commission (FERC) to have little or not commercial value;
2. FERC has certified the SCA operation as a waste burning facility and that certification remains valid;
3. the material is not processed to remove the residual coal from the aggregate material; and
4. the material from the Starpoint Mine Coal Refuse Pile, which will be burned in the SCA facility, has no market value.

Based on this, and related information, we find that the waste material in question will not be subject to reclamation fees. We must emphasize, however, that this information is subject to review by our staff, and that you must notify us immediately if any of the conditions you cited or representations you made should change. In addition, this finding does not release or in any way circumscribe SCA's or related parties' responsibilities under Title V of the Surface Mining Control and Reclamation Act, and as specified in the permit issued by the Utah Division of Oil, Gas and Mining.

Because the Starpoint Mine Coal Refuse Pile is permitted, it will still be necessary to report the tonnage used from the pile on the Coal Reclamation Fee Report (Form OSM-1) that is mailed to operators each calendar quarter. Simply insert the words "no value" on the "Calculated fee" line on the OSM-1. Should you have any questions on these matters, please contact Joyce Atchley (865-777-0660) of our staff.

Sincerely,



Jane T. Gray, Manager  
DCM, Region II