

January 12, 2009

Ms. Julie Carter  
Utah Division of Oil, Gas  
& Mining  
Suite 1210  
1594 West North Temple  
Salt Lake City, UT 84116

RE: DIVISION OF OIL, GAS AND MINING INFORMAL CONFERENCE  
MINING AND RECLAMATION PERMIT APPLICATION  
KINNEY NO. 2 MINE  
ABI FILE NO.: A207923  
TRANSCRIPT OF PROCEEDINGS

Dear Ms. Carter:

Enclosed please find the original transcript in the above-referenced matter, taken on September 30, 2008. It is in a sealed envelope.

Also enclosed is one audio CD.

If you have any questions, please contact our Customer Service Department at 800-288-3376.

Sincerely,

Atkinson-Baker, Inc.

Enclosure  
cc: file

1 DIVISION OF OIL, GAS AND MINING INFORMAL CONFERENCE  
2 MINING AND RECLAMATION PERMIT APPLICATION  
3 KINNEY NO. 2 MINE  
4

5 ORIGINAL  
6

7  
8 TAKEN AT: NATURAL RESOURCES BUILDING  
319 North Carbonville Road  
Price, Utah 84501  
9

10 DATE: September 30, 2008  
9:17 a.m. to 10:34 a.m.

11 REPORTED BY: Wendy Alcock, CSR, RPR  
12

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14  
15 FILED  
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JAN 15 2008

17 SECRETARY, BOARD OF  
18 OIL, GAS & MINING  
19

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A P P E A R A N C E S

1  
2 PRISCILLA BURTON, DOGM/PFO  
3 JUDY LAMB, Scofield Sewer District  
4 GERALD PITTS, Center for Water Advocacy  
5 WAYNE HERLEUI, Scofield Property Owner  
6 ROBERT J. BEZYACK, Scofield Property Owner  
7 DAVE HORSLEY, State Water Rights  
8 AUSTIN BELCHER, Canyon Fuel, Skyline Mine  
9 STEVE ALDER, Attorney General/DOGM  
10 KEVIN BOLANDER, Attorney General/DOGM  
11 BEN GRIMES, Hansen, Allen & Luce  
12 GREG HUNT, Carbon Resources  
13 WAYNE WESTERN, DOGM  
14 JAY MARSHALL, UEI  
15 DAVID DARBY, DOGM  
16 JOE HELFRICH, DOGM  
17 DARON HADDOCK, DOGM  
18 JIM SMITH, DOGM  
19 MIKE ERKILLA, Scofield Mayor  
20 APRIL ABATE, DOGM  
21 STEVE CHRISTENSEN, DOGM  
22 JOHN BAZA, DOGM  
23 DANA DEAN, DOGM  
24 HAROLD SHEPHERD, Center for Water Advocacy  
25

1 PROCEEDINGS

2 MR. BAZA: Good morning. Everyone appreciates  
3 you being here. We took a little longer driving in from  
4 Salt Lake than we expected, so I'm sorry about the delay  
5 and getting started here today.

6 My name is John Baza. I'm the director of the  
7 Division, and I think Dana has already introduced the  
8 division folks who are here. Why don't we go ahead and at  
9 least have introductions from everyone else. I don't  
10 think you've done that yet, have you Dana?

11 MS. DEAN: No.

12 MR. BAZA: Maybe start over here.

13 MR. GRIMES: My name is Ben Grimes, I'm with  
14 Hansen, Allen & Luce.

15 MR. BELCHER: Austin Belcher, Canyon Fuel,  
16 Skyline Mine.

17 MR. HORSLEY: David Horsley with the Division of  
18 Water Rights here in Price.

19 MR. BEZYACK: Bob Bezyack, property owner in  
20 Scofield.

21 MR. HERLEUI: Wayne Herleui, property owner in  
22 Scofield.

23 MR. ERKKILA: Mike Erkkila, Scofield mayor.

24 MS. LAMB: Judy Lamb, Scofield Reservoir Special  
25 District, sewer.

1 MR. HUNT: Greg Hunt with Carbon Resources.

2 MS. ABATE: April Abate, hydrologist.

3 MR. BAZA: You said you introduced all the  
4 Division personnel, right?

5 MS. DEAN: I did, but I have a question. Is  
6 anyone here from the Center for Water Advocacy? They're  
7 the ones that requested the conference.

8 MR. PITTS: They're on the way.

9 MS. DEAN: Okay. It doesn't matter. I'm just  
10 curious.

11 MR. BAZA: Well, let me start with a brief  
12 introduction this morning and then we'll have time for  
13 anyone who wants to make comments. We do have obviously a  
14 court reporter here who will take down information. And  
15 don't be too nervous about that, but we find that it's  
16 easier to have a direct set of notes taken by a recorder  
17 in order to go back and see what people's comments were.  
18 If you have written statements that you would like to  
19 submit, we will also accept those at this time, too.

20 Let me start out by explaining why we're here  
21 and what this meeting is all about. On February 21st of  
22 this year the Division received a permit application  
23 package for the Kinney No. 2 mine. The application was  
24 submitted by Carbon Resources, LLC, which is a subsidiary  
25 of Western Reserve Coal Corporation.

1           Its initial application did not pass the  
2 administrative completeness review that the Division  
3 conducts. We refer to this sometimes by the acronym ACR.  
4 Additional information was then requested by the Division  
5 from the applicant. On June 13th of 2008 the application  
6 was resubmitted. It passed the ACR review and the  
7 technical review process began in earnest. The Division's  
8 first technical review was completed during the week of  
9 September 15th.

10           Let me give you some details that we gleaned  
11 from the application package that will help you in making  
12 comments today. And these are details about the Kinney  
13 No. 2 mine site. It's located about half a mile north of  
14 Scofield, Utah. The application calls for a permit area  
15 of approximately 452 acres. Of the 452 acres, Carbon  
16 Resources owns 15 acres, with the remaining 437 acres  
17 owned by the Telonis family. Of the 437 acres owned by  
18 the Telonis family, 23 acres are held by Carbon Resources  
19 via an easement from the family.

20           The surface disturbance associated with the mine  
21 site is approximately 27 acres. The coal to be mined lies  
22 beneath the Telonis family surface land and is owned by  
23 Carbon County, which has leased the mineral rights to  
24 Western Reserve Coal, Inc., which is the parent company of  
25 Carbon Resources.

1           Several old mines operated in the area of the  
2 proposed surface facilities, including the original Kinney  
3 mine, the Columbine mine, and the Jones mine. Each of  
4 those mines had portals and operations in the outcrop in  
5 the general area of where the Kinney No. 2 mine plan  
6 proposes to be in operation.

7           The proposed mine site has been extensively  
8 disturbed by previous historical mine activities,  
9 including the Division's own land and mine reclamation  
10 projects which were completed in the 1980s.

11           Some of the details of coal production that we  
12 understand from the application is that the plan calls for  
13 an approximate annual production rate of 800,000 tons by  
14 utilizing an operating schedule of 250 workdays per year,  
15 two eight-hour shifts per day, with a base production of  
16 500 tons per hour. The plan outlines a room and pillar  
17 mining method utilizing continuous mining techniques.

18           Mining will be restricted to blocks of coal  
19 lying between faults. Numerous faults are located within  
20 the proposed permit and adjacent area and will need to be  
21 crossed during the development of the mine as well as  
22 during recovery of the coal.

23           The projected life of the Kinney No. 2 mine,  
24 based on the aforementioned operating schedule, is  
25 approximately three years, with the potential to extend

1 the mine life significantly with the acquisition of  
2 additional coal reserves which exist to the south and east  
3 of the proposed mine site.

4 We published notice of this informal conference  
5 in the Price Sun Advocate on September 16th and the 25th  
6 of 2008. The reason for holding the conference is because  
7 a request to hold the conference was received during the  
8 public comment period which informed the public that the  
9 Division was processing an administratively complete  
10 application for a new mine. The request came from a group  
11 calling themselves of the Center for Water Advocacy.  
12 Herald Shepherd is their director.

13 We want to offer this informal conference as an  
14 opportunity for comment on the Division's processing. We  
15 will offer an opportunity for anyone who wants to speak to  
16 have some time. We do intend to visit the location of the  
17 mine site later on today, so I'm asking that we try to be  
18 succinct with our comments. You may have more you want to  
19 say than ten minutes worth, but if you could keep your  
20 discussions and comments to about ten minutes, that will  
21 give time for everybody who wants to comment to comment.

22 If we have a need for it, after the informal  
23 conference period, comment period, we certainly have  
24 Division staff in the room who can answer any questions  
25 that you may wish to pose about our processes.

1           The decision that needs to be made at this point  
2 as part of this informal conference is making sure that we  
3 have an administratively complete plan, because that's  
4 what we did provide notice of, and that's the reason for  
5 the request for the informal conference that we have here  
6 today.

7           There is some decision-making that we will make  
8 after this informal conference, and there will be some  
9 timetables to do that. And I'm not sure specifically how  
10 quickly we do that, but often in the past it's been  
11 approximately 30 to 45 days. Then we'll render some kind  
12 of decision once we complete this process.

13           I think that's about all I wanted to do to  
14 introduce the concept of what we're doing today. Is there  
15 someone here from the Center for Water Advocacy?

16           MR. PITTS: He'll be here in just a minute.

17           MR. BAZA: Oh. Is there anything that any of  
18 the staff want to say?

19           (No response.)

20           MR. BAZA: If not, I think the way we've done  
21 these informal conferences -- and very honestly I've only  
22 participated in a few of them -- we'd like to give the  
23 applicant the opportunity towards the end of the comment  
24 period today to address any issues that may come up and  
25 any questions that we can answer. So what I'd like to do

1 is start out with anyone else who would like to address  
2 the Division today and put comments on the record.

3 (No response.)

4 MR. BAZA: Pretty quiet crowd. Well, then I  
5 think, Greg and Ben, it's probably up to you to give us a  
6 short discussion of the application process and try to  
7 anticipate any questions. You may still have questions at  
8 the conclusion of what you want to present, but why don't  
9 you go ahead and make your comments at this time, if that  
10 would be appropriate.

11 MR. HUNT: Okay, fair enough. I need to hook up  
12 this projector if you don't mind. I have a few pictures  
13 to show.

14 MR. BAZA: Sure, that would be fine.

15 (Briefly off the record.)

16 MR. HUNT: For those of you who may not be  
17 tremendously familiar with the Scofield area, the town of  
18 Scofield can be seen in the upper left-hand corner.  
19 That's actually a trailer park, RV park at the edge of  
20 town. And of course the highway here is coming into town.

21 This is the detailed topography of the mine  
22 area, so you can see the black -- heavy black line is the  
23 outline of the permit boundary. And this is actually a  
24 projection of the post mining topography after mining  
25 is -- sorry -- premine.

1           You can see there's a road that comes off the  
2 highway that's used by us and everyone else to access this  
3 area. This area right here was the site of an old stacking  
4 tube, and it's kind of become an ad hoc shooting range  
5 and a parking spot for hunters during the season. And  
6 this road continues up the mountain, the switchback. This  
7 is road known as Zigzag Road up the mountain.

8           Across here is the field or the flat lands of  
9 Scofield. There is a major fault that runs right down  
10 through here that drops this side down 600 feet relative  
11 to this side, and that's why the valley is there.

12           I apologize for having a really quick PowerPoint  
13 presentation and taking the time to do that. I didn't  
14 quite have it. We can look at I think the appropriate  
15 slides easily enough.

16           Coming up, this is a big image. It was an  
17 aerial photo taken by Intrasearch, a company specializing  
18 in geological services. And what I wanted to show is off  
19 of top of the screen. It says "Intrasearch" and the date  
20 is 8/4/82. That benchmarks the time this photo was taken.

21           And of course you can see the lake. You can see  
22 the entire town of Scofield. And here is the mine  
23 property that we are proposing to reopen the mine on. You  
24 can recognize the Zigzag Road on the previous photo. You  
25 can see here, however, what is a coal stacking yard and

1 some infrastructure. And I have another slide that's a  
2 blowup of this area that makes it a little more clear what  
3 was there in 1982.

4 Again, you can see the town of Scofield.  
5 Lavager store is conspicuously absent on that corner,  
6 which you can see it there today. And here is the road we  
7 saw coming into the property. And there is a coal  
8 stacking tube right there. There is a mine portal over in  
9 this area and a loading facility. Some coal has  
10 distributed along the old railroad track there.

11 I show you this just to give you some  
12 perspective to the former use of the land. This was the  
13 home of, as John pointed out, at least three coal mines.  
14 The K mine here, the Jones mine right back in here, the  
15 Columbine mine somewhere in the center, we've had trouble  
16 figuring out exactly where the portal was, and the UP mine  
17 on down the side that has been reclaimed since.

18 I don't know, John, if you would like me to go a  
19 lot further. I have a lot more information, but perhaps  
20 it would be better to wait until the end to go any  
21 further. That kind of sets the stage for who we are and  
22 our proposal and where the facilities will be. And if you  
23 want any more, I can certainly do that, or is this enough  
24 for now?

25 MR. BAZA: I think this is enough for now

1 because I do want to give you an opportunity at the end to  
2 address any questions and answer any questions that come  
3 up, or issues that are addressed by the comments. So we  
4 can go ahead and go on. I think we have a representative  
5 from the Center for Water Advocacy. And your name is?

6 MR. SHEPHERD: Harold Shepherd.

7 MR. BAZA: Harold, welcome. I made a brief  
8 introduction before you came in. We got the meeting  
9 started a little late, so you haven't missed that much.  
10 But one of the reasons that we are having this informal  
11 conference today was at the request of the Center for  
12 Water Advocacy.

13 So we wanted to give you some time today to talk  
14 about that request and your rationales for making that  
15 request for the informal conference and to provide us with  
16 any comments that you think we ought to have.

17 We do have your letter that was sent to us dated  
18 August 13th and that's part of public record in this  
19 matter now, but if there's anything that you wanted to  
20 speak to us verbally about, or written material that you  
21 wanted to provide as part of the informal conference  
22 today, we would like to give that you opportunity now. So  
23 why don't you come up front. And do you want to use this  
24 table?

25 MR. SHEPHERD: Sure. I guess what I'll do is --

1 most of the -- I assume that most of the folks here are  
2 agency folks and then probably representatives from the  
3 mine, and we also have some of our members in Scofield  
4 that are seated mostly along the back row on the right  
5 there.

6 I wanted to -- I think what I'll do is -- I  
7 actually have -- we have fairly extensive written comments  
8 that I'd like to maybe submit before the end of the  
9 meeting to the agencies, and that will aid in keeping my  
10 comments just to a summary and rather brief.

11 And what we did primarily was go through each of  
12 the criteria in the regulations, the surface coal mining  
13 regulations, starting out with -- we sort of cover the  
14 hydrological aspects, geological aspects, biological  
15 issues, soils. Some things that were not in the  
16 regulations, in addition to the criteria under -- there's  
17 Section 645-10-300. It's called, "Utah Criteria for  
18 Designating Areas as Unsuitable for Coal Mining and  
19 Reclamation Operations."

20 And I think that maybe -- maybe I'll just kind  
21 of start with those, just sort of so everybody can kind of  
22 get a perspective from where we're coming from. We are  
23 called the Center for Water Advocacy. We are a Utah-based  
24 nonprofit conservation organization. We focus on water  
25 issues. We do deal with quite a bit of mining issues in

1 Utah, Colorado, Oregon, Washington, and also Alaska.

2 And I think that one of the reasons that we have  
3 been involved in this is we do have a number of members  
4 that live in Scofield year-round. I think the gentleman  
5 from -- representing the mining company had mentioned that  
6 at one time, the slide that we saw, the Scofield area was  
7 a mining town, industrial town, what have you, because of  
8 the large deposits of coal that tend to occur in the area.  
9 It has some mining history.

10 However, Scofield now has changed, kind of like  
11 Moab, where I'm from. It's now a tourism economy. There  
12 is a recreational reservoir there that has a prize  
13 fishery. People come to live in Scofield now to get away.  
14 And it's based on a tourism economy that we think is one  
15 of the reasons we have asked that this area not be  
16 designated for mining under this provision that I've just  
17 cited you. We think that it fit each of the criteria for  
18 that.

19 I'll start out with -- first of all, the first  
20 criteria allows the state to designate an area not  
21 suitable for mining. It's incompatible with existing  
22 state or local land use plans and programs. And, again,  
23 there is another state entity that has jurisdiction in  
24 this area. It's the Utah Parks and Recreation. There's,  
25 again, a reservoir, a large reservoir that has a prize

1 fishery in that reservoir. It's used commonly for  
2 individuals, people in the community, visitors in the  
3 community for fishing and recreational activities.

4 We think that's in conflict. And this mine is  
5 going to be directly in conflict with that. Particularly  
6 when you have the number of -- and I don't know if it was  
7 in the application for the mine, but the number of  
8 freightliner size or large trucks that will be carrying  
9 coal and other maybe wastes away from the mine when the  
10 mine becomes operational that will be driving down Highway  
11 96 and presenting a hazard, in our opinion, and also  
12 coming in conflict with the people who are pulling out on  
13 the side of road, tourists taking pictures, people using  
14 the reservoir for fishing purposes and hauling their  
15 equipment back and forth. That's a very small road, and  
16 we think it's going to come in conflict with that.

17 There is another criteria that says if the mine  
18 were to affect fragile or historic lands, it could result  
19 in significant damage to important historic, cultural,  
20 scientific, or aesthetic values or natural systems.

21 I basically went over this because the mine is  
22 going to be located within -- I think even a portion of  
23 this mine -- this picture that was just thrown up on the  
24 screen, one thing I noted about that is not only will a  
25 portion of the mine at least be within the city limits of

1 Scofield, which is a very small town, but the area of this  
2 mine -- at least the land base looks almost as large as  
3 the town itself. So we're talking about a significant  
4 amount of land and usage that's going to be placed right  
5 there in the town of Scofield.

6 There's going to be water pollution issues. We  
7 believe potential water pollution issues. There was -- I  
8 think I have a copy in our comments of an enforcement  
9 order that was just issued by DOGM for an existing mine, I  
10 think it's called the Skyline Mine, that does exist there.

11 Now, they recently had a leak into one of the  
12 creeks near the mine. There were fine coal sediments that  
13 were found as a result of this leak. There was some  
14 enforcement action done. And so those types of instances  
15 are bound to happen as mining activity increases in the  
16 town of Scofield.

17 There's an Item C that says, "Affect renewable  
18 resource land in which the activities could result in a  
19 substantial loss of or reduction of long-range  
20 productivity of water supply or of food or fiber  
21 products."

22 Again, we think that this mine is not far at all  
23 from the reservoir. In fact, it's upstream from the  
24 reservoir. So there's a potential again for any kind of  
25 -- any leak that might happen, there's a potential for

1 that to affect the reservoir.

2           The last item for this criteria for not  
3 designating -- for designating this area as unsuitable for  
4 coal mining is that it will affect the natural-hazard  
5 lands in which the operations could substantially endanger  
6 life and property, such lands to include areas subject to  
7 frequent flooding and areas of unstable geology.

8           I think probably one of the biggest reasons --  
9 and I have attached again to my comments several studies.  
10 These are studies done in West Virginia. We believe --  
11 there was a comment I think maybe way back when this first  
12 came up that the coal in West Virginia is different from  
13 the coal here, and therefore the health effects are going  
14 to be different. We don't believe that's the case.

15           One of the studies, for example, that I got from a  
16 Professor Michael Hendricks -- I think he's with the  
17 University of Virginia -- is called, "Relations Between  
18 Health Indicators and Residential Proximity to Coal Mine  
19 in West Virginia." And I believe that the mining in this  
20 study is on a rather large scale.

21           But basically the conclusion -- I'll quote it to  
22 you. It's the results in the result section. "As coal  
23 production increases, health status worsened and rates of  
24 cardiopulmonary disease, lung disease, and cardiovascular  
25 disease, diabetes, and kidney disease increased."

1                   Another study, "Mortality from Heart,  
2                   Respiratory, and Kidney Disease in Coal Mining Areas of  
3                   Appalachia." Again, the same kind of correlation. As  
4                   coal mining activity increased, the mortality rates among  
5                   -- and these are not -- I think they did compensate for  
6                   the people that were actually working in the mine. These  
7                   are studies done for the population living next to the  
8                   mine. So we believe that this is a very similar scenario  
9                   that you're going to have.

10                   There's already mining activity in the Scofield  
11                   area. If you're going to add another mine to the land  
12                   base the size that was just shown in this picture, then  
13                   there's no doubt, we think, that the health risks are  
14                   going to increase.

15                   And it's just not -- you know, maybe part of  
16                   this -- I apologize for not understanding entirely the  
17                   format, I've never done an informal conference before, but  
18                   maybe there can be some discussion as part of this meeting  
19                   as to how those health risks can be decreased.

20                   And I won't go into a lot of detail, again, as  
21                   to the other -- the other information can be read in our  
22                   written comments. Primarily we felt that as far as the --  
23                   we'll take the hydrological information, for example. The  
24                   mining company did a lot of homework. There were three  
25                   volumes I think. Well, the application itself in this

1 case is probably about that thick. It's a one-volume set,  
2 but there are three other volumes of documentation for  
3 this mine. And they did -- there was an awful lot of  
4 information in there.

5 In a lot of cases it seemed that there were  
6 conclusions reached about, for example, whether water  
7 right permits were going to be affected by this mine and  
8 what kind of -- was this going to have an impact on the  
9 available water supply. And the conclusion in a lot of  
10 indications was no. But there did not seem to be any  
11 justification for that.

12 And so there was sort of this conclusion that  
13 seemed somewhat arbitrary that there's not going to be  
14 impacts on water or soils or geology, and therefore the  
15 data -- the company or the drafter of the application  
16 didn't feel the need to put the justification or potential  
17 justification for those impacts, or even write an  
18 alternative to say if there were impacts of this kind,  
19 this is what they would be.

20 And we would argue that in a normal document of  
21 this type, you should at least try to place scenarios in  
22 that document. Even if you're concluding that they are  
23 not going to be impact water quality or water avail-  
24 ability, what if there were? And you need to extrapolate  
25 on what those impacts might be.

1           From what we understand in the geological  
2 section that we mentioned, there are at least two faults  
3 in this mine that could impact safety. If there were some  
4 sort of failure, they could impact water quality.

5           There didn't seem to be a lot of information as  
6 to what happens after the mine. For example, if there's  
7 subsidence incident after the mine is closed. I didn't  
8 find anything. Again, I haven't read the entire  
9 application because it's just too large and there wasn't  
10 enough time before this meeting, but there didn't seem to  
11 be any information about post mine subsidence issues or  
12 reclamation activity.

13           So with that I will submit my comments I guess  
14 at the end of the meeting, and maybe we can go on and  
15 possibly hopefully have some of these questions answered  
16 and maybe some discussion.

17           MR. BAZA: Thank you. And I know that you  
18 walked in a little bit late, but at these informal  
19 conferences we try to get as much information as we can.  
20 Ultimately the decision is left with the Division. It's  
21 our call to either approve or not approve the mining  
22 application.

23           We don't necessarily want to get into a lot of  
24 back and forth dialogue and discussion at this meeting. I  
25 think there are opportunities for that maybe outside of

1 this meeting. But what we're trying to do at this point  
2 is get a clear understanding of what the objection was  
3 that caused us to have this informal conference and to get  
4 any information out that will allow us to understand. And  
5 so I appreciate the fact that you're going to submit your  
6 written comments because those will be what we rely on  
7 most of all as we proceed forth in these discussions and  
8 decision-making.

9 And then I did open it up to the floor before  
10 you came in the room and asked if there were any comments  
11 prior to that. There may be some now that Mr. Shepherd  
12 has made his comments. Is there anyone else in the room  
13 that would like to add to this discussion or add any  
14 information to the statements that Mr. Shepherd has made?

15 MR. GRIMES: The question to start with: Will  
16 we have an opportunity -- I'm representing the mining  
17 company. Will we have an opportunity to respond to the  
18 written comments before any decisions are made?

19 MR. BAZA: I believe you will. I believe that's  
20 kind of our ongoing relationship with the applicant. We  
21 want to make sure any questions that come up in this  
22 process are addressed to the satisfaction of Division  
23 staff. As I said, ultimately that judgment and  
24 decision-making lies with us. We have to be comfortable  
25 in the decision that we render.

1           And, of course, that decision is also appealable  
2 to the Board of Oil, Gas and Mining. So once we render a  
3 decision, if there are still parties or persons out there  
4 who think we have made that decision in error, our  
5 judgment is bad, that can be appealed to our Board.  
6 They're not the final or the ultimate call for the  
7 approval, but they certainly are the next level up above  
8 the Division.

9           So, yes, the applicant will have the opportunity  
10 to address any issues raised that the Division feels are  
11 pertinent to approving or disproving the application.

12           MR. HERLEUI: When he showed the map he said  
13 there was three mines that was in that location previous.  
14 There was the Kinney mine, the Clombo (sic) mine and the  
15 Jones mine, is that what you said?

16           MR. HUNT: Yes, Columbine mine.

17           MR. HERLEUI: Living up in that area for years,  
18 it used to be the Kinney mine, and then there was the  
19 Columbine mine, there was a Blue Seal mine that is not  
20 listed there, there was the Union Pacific mine which is  
21 was on fire for a number of years, and the McAlpine mine.  
22 I don't know if this is the one that was referred to as  
23 the Jones mine, but it should have been shown as McAlpine  
24 I think. And that was right at the mouth of the canyon,  
25 but it's at a lower level than where they are planning to

1 go in. It's a different vein; is that right?

2 MR. HUNT: If the McAlpine mine you referred to  
3 is in fact equal to the Jones mine, our information didn't  
4 show that, but I assume that it is. Ben was involved in  
5 looking at those old mines.

6 MR. GRIMES: I can document that.

7 MR. HUNT: Anyway, we're not familiar with the  
8 McAlpine mine, but the Jones mine is the lower.

9 MR. HERLEUI: I never heard it referred to as  
10 the Jones mine. Have you, Mike?

11 MR. ERKKILA: It's before my time.

12 MR. HERLEUI: Anyway it was the McAlpine mine  
13 where they went in at the face. The Kinney mine is at a  
14 different level, too, than the Blue Seal and the McAlpine  
15 and Columbine mine. So it was at a lower level than this  
16 one we're referring as the Kinney mine. And I guess it  
17 doesn't matter which level you're going to go in or what  
18 vein your at because evidently there's quite a few faults.

19 The Union Pacific mine, when they were mining  
20 it, it was a 26-foot vein of coal I think. And the Kinney  
21 mine, which is at a lower level, I think that's either a  
22 six or eight foot vein of coal. And the McAlpine was  
23 probably about six or eight foot. But they did end up  
24 breaking into the Union Pacific mine level.

25 And when they were working it, from what I was

1 told, there was some smoke that came into the new workings  
2 in the '80s I guess where the McAlpine -- and they said  
3 that some of the mining machinery at times when they would  
4 get in there -- when they tried to take the machinery out  
5 that there was a settling of the mine, the ceilings and so  
6 forth, that they couldn't get some of their machinery back  
7 out because of it.

8 Now, I don't know if this is going to be a  
9 problem with the new mining operations with the long wall  
10 or that, but these are just some of the things that I'd  
11 like to bring up.

12 MR. BAZA: If I can characterize your concern,  
13 it sounds like you're concerned about maybe the safety,  
14 smoke, air quality, things like that.

15 MR. HERLEUI: I don't know. I know the  
16 geologists here have done a lot of research. They've done  
17 some drilling on it and so forth. But I don't know how  
18 stable the ceilings are going to be in the mine. That's  
19 my comments.

20 MR. BAZA: Thank you very much for that. We'll  
21 certainly include that as part of our analysis then.

22 Is there anyone else who has statements that  
23 they want to make clear?

24 MR. ERKKILA: Sure. Mike Erkkila, Scofield  
25 town. There's a reason Carbon County is named carbon, you

1 know. For over a hundred years coal has been the  
2 livelihood of Carbon County. Skyline Mine, they're  
3 probably four miles to the south of us. They've been a  
4 good neighbor for 25 years. We had Valley Camp, White  
5 Oak. All these mines brought employment to the area.

6 This gentleman mentioned tourism. We really  
7 don't get any revenue from tourism in Scofield. Our  
8 property taxes -- we probably get 3,000 a year in property  
9 taxes.

10 And truck traffic, right now we've probably got  
11 over a hundred coal trucks running through town every day,  
12 24 hours a day. We have trains running through town.  
13 This coal mine will be to the south of Scofield so none of  
14 the trucks from this mine will go through the town of  
15 Scofield.

16 The community impact board, with the mineral  
17 lease money we were able to replace the sewer system, put  
18 in a sewer system, upgrade the water system, put in a  
19 maintenance building. Skyline Mine right now pays  
20 Scofield 20,000 a year for dumping their gray water at our  
21 plant. We have a \$700,000 TIB grant, and they're  
22 replacing all the bridges in Scofield at this time. And  
23 the coal mines are part of Carbon County. They've been a  
24 great benefit to Scofield. That's all I have.

25 MR. BAZA: Appreciate your comments. Anyone

1 else? Know this isn't your last chance. If you don't  
2 want to say something, you can certainly provide us with  
3 written comments. We'd like to see those as quickly as  
4 possible.

5 As I said, we would like those to render a  
6 decision based on what we do here today. Not necessarily  
7 on the mine application itself, but just on some findings  
8 related to this matter.

9 Mr. Hunt, did you want to go ahead and proceed  
10 with any additional information?

11 MR. HUNT: Absolutely. Perhaps I can first  
12 respond to Wayne's comments and concerns. We're very  
13 aware of the UP mine situation. The UP seam is 500 feet  
14 beneath the Hiawatha seam. The Kinney Mine is in back of  
15 the Hiawatha, which left a whole area of this mine  
16 extensively, leaving only a little bit of the coal that  
17 was rather dirty that they chose not to mine as a corridor  
18 to access the remaining coal. So certainly we're aware of  
19 the challenges faced by this mining endeavor.

20 And faults were noted. There are more than two  
21 faults. I would look forward to seeing Mr. Shepherd's  
22 comments about how the faults are going to affect the  
23 groundwater. I would be very interested in that logic.

24 The other challenges we understand. We are in  
25 close proximity to the town. We have to be good

1 neighbors, and we fully intend to be good neighbors.  
2 We've got people in town interested in working with the  
3 mine, and we anticipate benefitting the town.

4           You certainly can't make an omelet without  
5 breaking a few eggs. Yeah, there will be some impact.  
6 We're very knowledgeable of that. And we're working as  
7 diligently as is possible, we think, to minimize those  
8 impacts and to be a positive force in the community and  
9 the state.

10           As you pointed out, Carbon County owns the coal,  
11 and we're leasing the coal from Carbon County. The  
12 royalty from the coal will go directly to Carbon County to  
13 benefit Carbon County, which part of it will come back to  
14 Scofield.

15           In looking at the letter that Mr. Shepherd sent,  
16 one the one things that caught my eye initially was that  
17 they're a water advocacy group and they're concerned about  
18 the health of the watershed ecosystem and the preservation  
19 of cultural identity and the benefit of their members. Is  
20 it fair, Mr. Shepherd, to believe that your focus is water  
21 quality, being a water advocacy group? Is that fair to  
22 assume that that was a primary concern?

23           MR. SHEPHERD: Yeah. I believe water quality is  
24 of course a major concern. Water, of course, is connected  
25 to just about everything, so one of the things I can

1 respond is that as we focus on water, that gives us  
2 license to focus on anything because water is connected  
3 with a long list of subjects.

4 MR. HUNT: And it's a very noble thing to be  
5 concerned about, and you're not the only one concerned  
6 about it. There have been some concerns about Scofield  
7 Reservoir for some time, and you may have discovered it in  
8 the research.

9 There are people in this building who may be  
10 somewhat familiar with the issues. Here's a report on the  
11 reservoir, and it was focused on characterizing the  
12 limnology of the Scofield Reservoir and on the water  
13 quality and concerns relative to the fishery and water  
14 quality in general.

15 And it goes through, and if you can read that --  
16 is that focused very well? It does a pretty good job of  
17 characterizing the limnology, and it does an assessment,  
18 and it concludes -- this is in 1983, I believe -- that the  
19 water quality of Scofield Reservoir is fair, is considered  
20 to be hard with a hardness of approximately 187 micrograms  
21 per liter.

22 Scanning on down there it says the average  
23 concentration of total phosphorous in the water in recent  
24 years has usually always exceeded recommended pollution  
25 indicators for phosphorous, which is 25 micrograms per

1 liter. The problems of the excessiveness have been  
2 documented in several reports. And not to belabor the  
3 point, let's go on down.

4 This indicates some of the problems that have  
5 occurred and characterizes the fish killed. According to  
6 DWR no fish kills have been reported since the last  
7 treatment, but prior to the treatment fish kills were  
8 common. A major contributing factor prior to the  
9 treatment of 1991 we're anoxic conditions from dissolved  
10 oxygen depletion during late summer and winter. Dissolved  
11 oxygen concentrations were determined to be well below the  
12 threshold established for a viable cold water fishery.

13 This was having a dramatic effect on the  
14 fingerlings stocked during the fall, resulting in very  
15 little carryover of these fish. It has also been reported  
16 that dry years increase the chance of fish kills.

17 Jumping ahead it further suggests that this  
18 study identified the source of pollution. "Phosphate and  
19 nitrate were responsible for the eutrofication" -- Steve  
20 help me out there.

21 MR. ALDER: Eutrofication.

22 MR. HUNT: -- "eutrofication with phosphorous  
23 identified as a limiting nutrient. For this reason  
24 phosphorous was identified as the target parameter for  
25 nutrient reduction efforts."

1                   And scrolling on down, "The external source of  
2 phosphorous includes sediment, culinary waste, and  
3 livestock sewage. Much has been done since 1983 to reduce  
4 the culinary waste." As Mike pointed out, the new sewer  
5 system. "A more adequate sewer system has been installed  
6 in the Scofield area. Erosion and livestock continue to  
7 be a problem." That's essentially the conclusion of that  
8 study.

9                   And, again, you're not the only group that's  
10 concerned about that reservoir. And we think there's a  
11 potential that if we were to discharge, we might be able  
12 to reduce that concentration a bit. However, we are not  
13 planning to nor desirous to discharge into the reservoir.

14                   Now, as I showed you before, and this is not  
15 quite as slick as I could make it with PowerPoint. This  
16 being the mine location -- and, actually, I'm going to  
17 have Ben, who has -- he is really the guy who is more  
18 knowledgeable than I relative to our plans. Maybe have a  
19 quick shot at this, Ben.

20                   This is a map showing the pads that will be  
21 constructed for our mine, the bath house, office building  
22 here, warehouse, and main yard here, parking lot, and  
23 storage here, coal stacking tube, intermediate tube going  
24 on down and having a truck load out here. And then of  
25 course up here is the portal of the mine going in this

1 direction. Here is the sediment pond.

2 Now, what was mentioned earlier is this permit  
3 is for a relatively small area. We control much more coal  
4 than this permit application includes, and we will be  
5 expanding the permit application. Part of the expansion  
6 is to move northward and put in a unit train loadout just  
7 from this point northward, which would pretty much  
8 eliminate all the truck traffic.

9 Anyway, having said that, Ben, would you like to  
10 just go through this a little bit and describe our  
11 drainage plan? This is the best I have, sorry.

12 MR. GRIMES: Yeah, it's not the official surface  
13 runoff control map, but it's a good map I think.

14 Basically what that map shows are the drainage  
15 subbasins. In other words, the areas that contribute to  
16 certain ditches and culverts. And in essence everything  
17 -- all of the disturbance, all of the runoff in the  
18 disturbed area will make its way to sediment pond No. 1  
19 and will be captured in that sediment pond, according to  
20 state and federal law.

21 And discharge from that pond will meet -- will  
22 have to meet state and federal requirements under the  
23 discharge elimination program, commonly called the NPDS or  
24 UPDS program. So again, all runoff will be captured in  
25 the pond and it has to meet certain requirements before

1 anything can be discharged into the environment.

2 MR. HUNT: And that pond is?

3 MR. GRIMES: That pond is sized to handle the  
4 regulatory requirement of a 10-year event, plus sediment  
5 load, plus free board, and I think the dam itself is sized  
6 to handle a 100-year storm event.

7 MR. HUNT: Thank you, Ben. We could spend a lot  
8 of time on more technical stuff. This group mostly with  
9 the staff are quite intimately familiar with the technical  
10 stuff right now. We just have a couple of questions of  
11 Mr. Shepherd, if it's all right.

12 MR. BAZA: I'm not sure if that's the reason  
13 we're here, but if you want to direct your questions at us  
14 we can certainly analyze those things as part of our  
15 review.

16 MR. HUNT: Okay. Well, I'm curious about the  
17 water advocacy group and if it's only -- what the  
18 requirements for membership are and how many members there  
19 are in the group. Mr. Shepherd I met before. He's also  
20 the president of another organization, the Red Rock  
21 Forest -- did I get that right? -- Forest Advocacy Group.

22 MR. SHEPHERD: Red Rock Forest.

23 MR. HUNT: And I would be interested in how many  
24 members there are involved and how big of a concern this  
25 is by how many people is my question.

1 MR. BAZA: Okay.

2 MR. HUNT: Again, I think there's a lot we could  
3 cover. I'm not sure that it would benefit all of us here  
4 today to rehash stuff we've gone through. I might go on  
5 record to say -- which is common knowledge -- we are now  
6 in the process of responding to the detailed review by the  
7 group. And it was detailed. I have to give them credit  
8 that we've got some work to do. But we're happy to do it  
9 and appreciate the effort that was expended. It will be a  
10 very good project, having gone through that careful of a  
11 review process. That's all I have to say unless there are  
12 other questions.

13 MR. BAZA: Mr. Shepherd, maybe for your benefit,  
14 before you came in I did make some introductory remarks,  
15 and I indicated that during the week of September 15th the  
16 Division finished its first technical review. This list  
17 that Mr. Hunt is referring to is a list of detailed  
18 information that we've asked from the applicant now to  
19 address our initial concerns on that.

20 MR. SHEPHERD: Okay. Can I ask a couple  
21 questions? I have one about this slide. Is it okay to  
22 ask a question about that slide?

23 MR. BAZA: Yeah, go ahead and ask away.

24 MR. SHEPHERD: How far is the reservoir from  
25 this area?

1 MR. HUNT: Another map would be better for that.

2 MR. BAZA: Did you have another question?

3 MR. HERLEUI: Well, this is prior to this mine.  
4 When the Columbine mine used to be in that area, the  
5 regulations by the state wasn't as stringent as it is  
6 right now. And before the reclamation was done, there was  
7 coal laying all over the hillside there. And the state  
8 went in and had them do a reclamation project for that  
9 area and they covered up the slack with dirt and that.

10 And the hills that is to the west of the  
11 highway, you can go in there probably now and you can  
12 still find some of that slack that had washed into that  
13 field. And from what I understand, where they're going to  
14 put the bath house and that, they're going to have to do  
15 some movement of the dirt and that before and get some of  
16 that slack that's been covered by the dirt. That is going  
17 to all have to be cleaned up, isn't that what you said?

18 MR. HUNT: That is correct.

19 MR. HERLEUI: That is one of the projects prior  
20 to the mining operation that's going to be done there.

21 MR. BAZA: You're talking about the buried coal?

22 MR. HERLEUI: Yeah, the buried coal that's  
23 there. And then if you probably went in to that field I  
24 think you will find that through the winter -- the hard  
25 winters that we've had up in Scofield, which we haven't

1 had for a number of years, the runoff has taken some of  
2 that coal into that field, and I'm sure that, you know,  
3 it's possible that that kind of coal could be washed into  
4 the streams also. I don't know if this has been looked  
5 at. Probably has.

6 MR. BAZA: That might be a different issue that  
7 we'd have to address. But I can assure you that any  
8 disturbance that the current mine operator proposes will  
9 be reclaimed under our requirements under the Federal  
10 Surface Mine Control and Reclamation Act. So any  
11 disturbance that they're responsible for has to endure  
12 some reclamation.

13 MR. HERLEUI: I appreciate that.

14 MR. BAZA: Sure.

15 MR. GRIMES: I might note also that during the  
16 mining operation none of the runoff from the surface  
17 operation is allowed to go beyond the sediment pond. So  
18 there is little or no chance of anything leaving the mine  
19 site.

20 MR. BAZA: Were there other questions that need  
21 to be addressed to the Division or perhaps the mine  
22 operator could answer while we're here today? This is  
23 primarily an information gathering exercise for us. We're  
24 trying to understand completely the nature of the  
25 objection the water advocacy group has, and we also want

1 to make sure that as we do our analysis in the Division  
2 that we're properly addressing all the major issues.

3 Mr. Shepherd?

4 MR. SHEPHERD: In response to that, I guess  
5 Mr. Hunt was trying to answer my last question. In light  
6 of the presentation about the existing water quality  
7 issues, we didn't really address this in our comments  
8 because I wouldn't know where exactly the status of the  
9 water quality in the reservoir at this point.

10 I understand the point that he's trying to make  
11 is not necessarily mining activity, or may not be mining  
12 activity that causes water quality problems or existing  
13 water quality problem in the lake now, however whatever  
14 the cause of those water quality problems, whether it be  
15 agricultural or livestock waste or culinary waste or what  
16 have you, it appears that the fact that there is an issue  
17 with water quality already in the reservoir, and that  
18 would heighten our concerns about additional potential  
19 activity that would add in a cumulative sense to the water  
20 quality. And the only reason I say that now is we didn't  
21 put in our written comments, and I wanted to make sure  
22 that was on the board.

23 MR. BAZA: Thank you for that statement. And I know  
24 that the Division is very concerned about hydrological  
25 issues. That is a major part of our analysis. We have a

1 team of hydrologists that work within the coal program,  
2 and they're certainly ready and willing to address those  
3 issue.

4 Mr. Hunt, the report that you referred to in  
5 your last slide that was up on the board, is that part of  
6 your application or are you going to make that part of  
7 your application?

8 MR. HUNT: It is not currently part of the  
9 application. And Ben and I need to confer whether we need  
10 to include it or not. I will make it available for review.

11 MR. BAZA: Probably just so we have a reference  
12 if we want to refer to that report.

13 MR. HUNT: We can certainly do that.

14 To answer Mr. Shepherd's last question, we  
15 looking at 3,200 feet from the edge of our permit  
16 boundary, which is right there, to the edge of the lake.  
17 But the lake varies and fluctuates. It will be noted that  
18 there is a railroad trestle that comes between us and the  
19 lake, as well as the highway that comes between us and the  
20 lake.

21 MR. GRIMES: The lake level shown on that map is  
22 the high water mark. So in normal years the lake level is  
23 considerably farther away than is shown on that map.

24 MR. SHEPHERD: And then that's Mud Creek I see  
25 right there?

1 MR. HUNT: Yeah, this squiggly line is Mud  
2 Creek.

3 MR. BAZA: For my own information, Mr. Hunt,  
4 since we're here, would the transport of the coal be going  
5 to a nearby rail loadout, or where would you transport it  
6 to?

7 MR. HUNT: Okay. Just to recap it, initially we  
8 will not have a rail loadout. We'll be trucking. And we  
9 do not have contracts in place, we have interested  
10 parties. It is likely that the contracts we will be able  
11 to secure will require us hauling north out of the  
12 highway, with the odd possibility that there could be a  
13 contract that would be better served by going through  
14 Scofield and up over the top. But the most likely  
15 possibility is hauling north.

16 We intend, within the shortest period possible  
17 by our economics, to amend this permit application to  
18 include the corridor which runs right through here. Maybe  
19 I can enlarge this just a little bit.

20 There is an old railway siding. The red line is  
21 the current UP railroad. There's a old siding that comes  
22 right -- we can turn it up -- right down to here, and ends  
23 approximately right here. So this is a grate, a rail  
24 grate. I have lots of photos of it. Some of the track is  
25 still in place, most of it has been removed. And we have

1 secured the property from approximately this location to  
2 the current edge of our property. And we will be applying  
3 for a unit train loadout at that location.

4 And when that loadout is built, we will  
5 essentially discontinue trucking except for the odd  
6 occasion, odd customer that would require trucking. So  
7 that's our long-term plan in terms of transport for  
8 transporting coal, and we would desire to move to that as  
9 soon as practical.

10 MR. BAZA: Okay. I see a hand raised back  
11 there.

12 MR. HERLEUI: I'm raising all kinds of  
13 questions. They're rebuilding the dam up at Scofield for  
14 the overflow and that, and from what I understand -- is  
15 there somebody from the water users here?

16 (No response.)

17 MR. HERLEUI: Anyway, I understand that they  
18 were going to raise that three feet, so that's going to  
19 affect the level of that lake from what it is here; is  
20 this true?

21 MS. LAMB: (Shaking head.)

22 MR. HERLEUI: It isn't going to raise it any?  
23 Because --

24 MS. LAMB: They can't do that. There were no  
25 public hearings. Did you attend any?

1 MS. LAMB: No. It's the same?

2 MR. HERLEUI: It's going to stay the same.

3 MS. LAMB: The work they're doing right now.

4 MR. HERLEUI: Yeah. I heard they were raising  
5 it three feet.

6 MS. LAMB: I heard that, too.

7 MR. SHEPHERD: I had questions about the first  
8 slide. Mr. Hunt was talking with the land base of the  
9 mine. The question is: How much of this -- I'm thinking  
10 about the first slide where you showed the property  
11 ownership for the Kinney mine. How much of that are you  
12 planning on developing either in this application or  
13 sometime in the future?

14 MR. HUNT: Those acreages were read out by  
15 Mr. Baza earlier.

16 MR. GRIMES: 27.3 acres of disturbance.

17 MR. BAZA: Surface disturbance. That  
18 information that I introduced was taken directly out of  
19 the initial mine application that was submitted to us.

20 MR. HUNT: There may be a misconception of the  
21 size of the town of Scofield. The town of Scofield sits  
22 here and expands up to here, and at least to here. I  
23 could calculate the acreage.

24 MR. SHEPHERD: Within that white border is the  
25 mine?

1           MR. HUNT: That's the mine permit area. The  
2 mine property -- there's an easement which runs  
3 north/south, 400 feet wide. That's the Telonis easement.  
4 And then this sort of odd shaped piece here is Carbon  
5 Resources' property. So between that 15 acres of the  
6 Carbon Resources and 23 acres of the Telonis easement, all  
7 of our facilities will be within those bounds.

8           This is merely the permit application boundary.  
9 And that boundary will be expanded on our subsequent permit  
10 renewal as we move to access coal reserves further east  
11 and to the south that we already control.

12           MR. BAZA: Let me just say, I think we're to a  
13 widening up point. And I wanted to mention that the  
14 Division does take its responsibility seriously in terms  
15 of coal mine permitting. We've had several applications  
16 we've been addressing in the past few years, and this is  
17 not something new to us. But it is also not something  
18 that we want to take lightly, and we don't want to rush to  
19 judgment on any of the matters that have been discussed  
20 today, or any of the things that we have responsibility  
21 for under our coal regulatory program.

22           That being said, we do want to issue a timely  
23 decision on this. We have asked the operator for  
24 additional information. And the reason I characterize  
25 that is we've completed our first technical reviews, but

1 sometimes this iterates over several different times of  
2 requesting information from the operator and getting that  
3 back.

4           So we want you to know that we will take into  
5 account every statement that's been made here today and  
6 apply it appropriately, as it's the responsibility of ours  
7 under the coal regulatory program and the federal laws  
8 that we have responsibility for.

9           A lot of this will depend on the applicant  
10 themselves and how quickly they respond to our requests  
11 for information in order to improve the application and in  
12 order to address all these issues. But we do want to act  
13 quickly, but not in a rush. We want to be methodical  
14 about our analysis and respond accordingly to those  
15 issues.

16           Mr. Shepherd you indicated that you had written  
17 material that you would like to leave with us. We'd be  
18 happy to accept that today. If there's more that anyone  
19 wants to add to this after hearing, these comments today,  
20 send us something in the next few days. I'll leave some  
21 business cards here on the table and I want to make sure  
22 that as you have issues we address them both as part of  
23 this informal conference and as part of our ongoing review  
24 of the operator.

25           So I want to thank you all for being here.

1 Staff, is there any anything you want to bring up? Any  
2 questions that you want to ask at this point in time?

3 (No response.)

4 MR. BAZA: Okay. Well, as I indicated then, the  
5 staff now, we desire to take a site visit to the actual  
6 property, so we'll probably be traveling up there in the  
7 next few minutes. We appreciate everyone's attendance.  
8 And, again, let us know if you have issues that you want  
9 us to address as part of our analysis. Thank you all very  
10 much.

11 (The hearing concluded at 10:34 a.m.)

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C E R T I F I C A T E

STATE OF UTAH            )  
                                  :  
COUNTY OF SALT LAKE)

I, Wendy Alcock, a Registered Shorthand Reporter  
and Notary Public within and for the County of Salt Lake  
and State of Utah, do hereby certify:

That the foregoing proceeding was taken before me at  
the time and place herein set forth, and was taken down  
by me in stenotype and thereafter transcribed into  
typewriting:

That the foregoing 42 pages contain a true and  
correct transcription of my stenotype notes so taken.

IN WITNESS WHEREOF, I have hereunto subscribed my  
name and affixed my seal this 4th day of October, 2008.

*Wendy Alcock*  
Wendy Alcock, R.P.R.

My commission expires:  
May 18, 2012

