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RECEIVED
FEB 15 1984

DIVISION OF
OIL, GAS & MINING

February 8, 1984

John Whitehead
Division of Oil, Gas & Mining
4241 State Office Building
Salt Lake City, Utah 84114

Re: Huntington #4 Draft TA, ACT/015/004, Folder No. 2, Emery County, Utah

As you are aware, Huntington City, which I represent, is deeply concerned about the proximity of Beaver Creek Coal Company's proposed mining activities to the municipal water supply. This matter was raised previously in 1976 and was concluded by written agreement of the City and Swisher Coal Company. It is our feeling that that agreement should be modified somewhat to fully protect the City and consequently the City has been in contact with Beaver Creek Coal Company and we are in the process of negotiating a new agreement. A copy of the latest draft of that agreement is enclosed for your information. The City hereby requests that the entering into said agreement by Beaver Creek Coal Company and the City be a condition precedent to approval of the mining plan by the Division of Oil, Gas & Mining. The Company has been very cooperative and I anticipate no serious difficulties in securing said agreement.

I have spoken to Darrel Leamaster of the Castle Valley Special Service District and he informs me that the approximate cost estimates for rerouting and treating water, should the mining activities interfere with the municipal water supply, would be \$200,000 for rerouting down Mill Fork Canyon to tie into the existing transmission line in the main canyon, and \$450,000 for mechanical treatment if necessary.

The Division's cooperation in this matter is very much appreciated.



Scott Johansen
Attorney at Law

SJ:par

cc Dan Guy, Beaver Creek Coal Company
Huntington City
Darrel Leamaster, Castle Valley Special Service District

SCOTT N. JOHANSEN

ATTORNEY AT LAW

P.O. BOX 1099

CASTLE DALE, UTAH 84513

(801) 381-2543

February 7, 1984

Dan Guy
Beaver Creek Coal Company
P.O. Box AU
Price, Utah 84501

Re: Huntington #4 Draft TA, ACT/015/004, Folder No. 2, Emery County, Utah

Pursuant to our telephone conversation of February 6, 1984, enclosed find a proposed agreement which would supplement the Swisher agreement relative to the above matter. I am available to meet with you or to review any written comments you desire. I await your reply.

Scott Johansen
Attorney at Law

SJ:par

cc John Whitehead, Division of Oil, Gas & Mining
Huntington City
Darrel Leamaster, Castle Valley Special Service District

AGREEMENT

This Agreement entered into this ____ day of _____, 1984 by and between BEAVER CREEK COAL COMPANY, INC., a wholly owned subsidiary of Atlantic Richfield Company, Inc., of Price, Carbon County, Utah, hereinafter referred to as "Company" and HUNTINGTON CITY, a municipal corporation, hereinafter referred to as "City",

WITNESSTH

WHEREAS, Company is undertaking to develop a coal mine in Mill Fork Canyon, known as Huntington Canyon No. 4 Mine, in Emery County, Utah, and

WHEREAS, City has received in the past and is now receiving a major portion of its culinary water supply from a spring in Little Bear Canyon in the general proximity of the proposed mining operation, and

WHEREAS, the parties to this Agreement wish to cooperate with one another so as to assure that the coal operation does not in any manner result in a loss or diminution of water supply or quality available to the City,

THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties do hereby agree and covenant as follows:

1. Inspections. At the option of City, representatives of the City and the Company may make inspections underground in the mine operation and any other mine operated near the spring above referred to to check for water.

2. Meter. The City shall maintain a flow meter at the spring site and shall take measurements from the meter on a continuing basis, and flow measurements shall be made available to Company.

3. No Explosives. All mining operations in the vicinity of the spring above referred to conducted by the Company, including the Huntington Canyon No. 4 Mine, shall be done without the use of explosives.

4. Interruption of Spring. In the event that the quality of water at the spring decreases below the standards set by the Utah State Board Health for culinary water, or in the event that the quantity of water at the spring decreases in flow 15 per cent below the flow for the month immediately preceding, in any 30-day period; or 40 per cent below the average for the preceding 180 days in any 180-day period, then Company shall, in accordance with this Agreement, undertake such action as may be necessary to obtain water from some other source, and place said water into the culinary water system of City in such quantity and quality as would replenish the flow and quality that has been lost. Company agrees to use reasonable diligence to take all required actions herein or make the required replacement of a permanent nature

acceptable to the City as rapidly as feasible, not to exceed one (1) year, and further agrees to maintain such temporary measures until permanent measures are completed, at its sole expense. In the event that mechanical treatment of water is required to bring the water obtained by Company to Utah State Board of Health standards for culinary water, Company further agrees to pay for the cost of said treatment, including capital costs, if any, as long as the interruption continues. In the event that it is later determined that such decrease in the flow or quality of water is not a result of activities for which the Company is responsible, City agrees to reimburse Company for its reasonable and necessary expenses incurred pursuant to this paragraph.

5. Reassessment of Company's Obligation. The parties further agree that the figures of 15 per cent and 40 per cent relative to a decrease in flow of the spring cited in paragraph 4 above as the trigger for Company's obligation to replace said diminution of flow, may be altered from time to time by mutual agreement of the parties after a period of three (3) years, after which time the parties will have sufficient spring flow data to more accurately establish that point at which the diminution of flow at the spring site is likely to have been caused by the Company's mining operations.

6. Other Mining Activities. In the event any other mining operation or other activity of any other person or entity is proposed or planned in the area which may affect the flow of the spring, City will request such person or entity to sign an agreement similar to this Agreement binding such other person or entity to bear responsibility for any adverse effect such other person's or entity's activities may have upon the flow or quality of said spring. In the event any diminution in the flow or quality of the spring may be attributable to the activities of any person or entity other than Company, Company shall have the right to establish the same to City's reasonable satisfaction and thereby shall be entitled to reimbursement, within a reasonable time from such establishment, for reasonable costs incurred by Company for corrective action required under this Agreement to the extent it is established that such other person or entity is responsible for the diminished flow or quality. In that event City agrees to look to such other person or entity for such corrective action as it deems necessary.

7. Insurance. In order to assure performance on its part of the covenants of this Agreement, Company agrees to provide the City with insurance in an amount not less than _____ (\$ _____) Dollars with a company acceptable to the City and with the City as a named insured, provided that the insurance policy may be the same as is required by

Section 40-10-10(6) Utah Code Annotated, as long as City is a named insured. Company shall provide City with a certificate of insurance sufficient to show compliance with this paragraph. The City hereby declines to protest the Company's present proposal in cause number ACT-015-004 before the Utah Board of Oil, Gas and Mining, but specifically reserves its right to protest any and all other mining plans or proposals in the future.

8. Assignments. The parties shall not assign their obligations or rights under this Agreement without the mutual consent of each other, and this Agreement shall apply to and bind the heirs, executors, administrators, successors and assigns of the respective parties hereto.

9. Notices: Any notice, demand or requested provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person and sent by registered or certified mail, postage prepaid to the persons specified below:

Beaver Creek Coal Company, Inc., Box AU, Price, Utah 84501
Huntington City, Huntington, Utah 84528

10. Time: Time is of the essence with reference to all provisions of this Agreement.

11. Counterparts: This Agreement shall be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

12. Utah Law: This Agreement is made under and shall be deemed to be governed by the laws of the State of Utah.

13. Captions: The captions and headings appearing in this Agreement are inserted merely to facilitate reference and have no bearing on the interpretation of any of the terms and provisions thereof.

14. Related Documents: Each party agrees upon request by any other party to make, execute and deliver any and all documents reasonably required to implement this Agreement.

15. Severance: In the Event that any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions shall be held invalid as to any person, or entity, the remainder of this Agreement, and the application of its terms, covenants or conditions to such person or entity shall not be affected thereby.

16. Waiver: Any waiver at any time by any party of its rights with respect to a default of other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

17. Governmental Approval: The parties shall use their best efforts to obtain all of the requisite governmental and regulatory approvals required for the consummation of the transactions contemplated by this Agreement.

18. Costs of Enforcement: Should the Company default in any of the covenants or agreements contained herein, the Company shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes of the State of Utah, whether such remedies are pursued by filing a suit or otherwise.

19. Heirs and Assigns: It is understood that the stipulations aforesaid are to apply to and bind the heirs, executors, administrators, successors, and assigns of the respective parties hereto. There shall be no modification to this Agreement except upon the express written consent of the parties hereto.

20. Authorization: The signatories hereto represent that they have been appropriately authorized to enter into this Agreement on behalf of the party for whom they sign.

Dated the day and year first above written.

This Agreement is executed pursuant to a resolution duly adopted by the City Council of Huntington City at a regularly scheduled meeting of the Council authorizing the execution of said Agreement.

DATED this _____ day of _____ 1984.

HUNTINGTON CITY, a municipal
corporation

ATTEST:

By _____
Its Mayor

City Recorder

This Agreement is executed pursuant to a resolution duly adopted by the Board of Directors of Beaver Creek Coal Company, Inc. authorizing the execution of said Agreement.

DATED this _____ day of _____ 1984.

BEAVER CREEK COAL COMPANY, INC., a
corporation

ATTEST:

By _____
_____ (Title)

Secretary