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DIVISION OF
OIL GAS & MINING

Dr. Diane R. Nielson, Director
Utah Division of Oil Gas & Mining
3 Triad Center, Suite 350
355 W. North Temple
Salt Lake City, Utah 84180

Dear Dr. Nielson:

After reviewing your counteroffer for settlement in the matter of NOV91-26-8-2 and our motion for preliminary injunction regarding Cessation Order 92-26-1-2, it has occurred to me that perhaps you have misunderstood our position. Hidden Valley Coal Company (HVCC) is seeking clarity from the Division of Oil, Gas and Mining (Division) in the enforcement and interpretation of its regulations on reclamation in exchange for forgoing HVCC's jurisdictional challenge and pending appeal. The settlement counteroffer proposed by the Division does not provide the clarity we are searching for, but only reiterates the very issues that are in dispute, and which have brought us to this litigation.

The activities at the Emery County property of HVCC are being micromanaged to the "n"th degree, in a manner that provides no certainty that a given method and level of performance will result in a successful reclamation. If every time there is erosion on the property from rainfall the State of Utah, through the Division, requires us to cast seed upon the land and restart the liability period, HVCC and the Division will never get anywhere. This cannot be the intent of the law.

The property that is the subject of all of this attention is in a steep canyon. From the top of the reclamation area to the bottom, the vertical drop is two hundred eighty-two (282) feet over a maximum distance of two thousand five hundred (2,500) feet. This is an average eleven percent (11%) slope, with the road fill slopes being fifty percent (50%), or greater. I believe that both HVCC and the Division recognize that this is a difficult site to reclaim, notwithstanding its erratic climate.

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We have suggested that there are sufficient reasons to justify that, at a minimum, the Hidden Valley site should never have been included in the permanent program. The interim regulatory program standards would give both the Division and HVCC some flexibility in dealing with the site in a reasonable manner. In my opinion, this would be some middle ground for both HVCC and the Division, where progress could be accelerated toward the real goal of reclamation.

If we can come to some understanding on this basic point, the other peripheral issues we have each enumerated will most likely be resolved rather easily.

Sincerely,

HIDDEN VALLEY COAL COMPANY



Lee Edmonson
Manager
Planning and Regulatory Affairs

LE/cn

cc: Peter Stirba, Esq.
Denise Dragoo, Esq.

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