



OGMCOAL DNR <ogmcoal@utah.gov>

Fwd: Emery Mine - Sundstrom offer and response

1 message

Steve Christensen <stevechristensen@utah.gov>

Wed, Dec 3, 2014 at 2:29 PM

To: OGMCOAL DNR <ogmcoal@utah.gov>

fyi- Emery Deep, Sundstrom Citizen Complaint Documents

----- Forwarded message -----

From: **Geffert, John** <jgefferth@cecinc.com>

Date: Mon, Dec 1, 2014 at 10:02 AM

Subject: Emery Mine - Sundstrom offer and response

To: "Steve Christensen (stevechristensen@utah.gov)" <stevechristensen@utah.gov>

Cc: "Gill Gillenwater - CONSOL Energy, Inc. (WilliamGillenwater@consolenergy.com)"

<WilliamGillenwater@consolenergy.com>, "Bryan K. Benard (BBenard@hollandhart.com)"

<BBenard@hollandhart.com>, "Cindy Uhe (CindyUhe@consolenergy.com)"

<CindyUhe@consolenergy.com>

Steve

Per our discussion last week, attached please find CONSOL's original offer to Jon Sundstrom for mitigation dated September 30, 2014 and Jon Sundstrom's response dated October 17, 2014.

Please let me know if you need additional information concerning this issue as CONSOL is very anxious to bring it to resolution.

*SAFETY...Make It Personal !!!***John A. Gefferth** / Principal

Civil & Environmental Consultants, Inc.

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stevechristensen@utah.gov

2 attachments

2014-09-30 Letter to Pat N. Sundstrom and Sam B. Sundstrom.pdf

329K



2014-10-17 Letter from Jon Sundstrom re Damages to Sundstrom Farm.pdf

55K

September 30, 2014

Pat N. Sundstrom
P.O. Box 593
Emery, Utah 84522

Sam B. Sundstrom
PO Box 15
Emery, UT 84522

Re: DOGM Citizen Complaint and Offer
Confidential Settlement Discussions subject to Rule of Evidence 408

Dear Messrs. Sundstrom:

We write to you as having been notified you have Power of Attorney for Jon H. Sundstrom. As you know, DOGM inspector Pete Hess and Eric Luke of Nielson Construction Company inspected your property on May 28, 2014 related to your DOGM citizen complaint (DOGM Permit Number C0150015 Citizen Complaint). The bid for the work came back more expensive than had been anticipated by CONSOL Energy Inc. This caused some delay as CONSOL considered the additional expenses. CONSOL is now prepared to proceed as outlined below.

We understand that DOGM has investigated your Citizen Complaint but does not view this matter as rising to an enforcement action on their part. While DOGM identified some land depressions, DOGM has not determined that there has been subsidence caused by CONSOL's mining activities, but views your property as outside the angle of draw for subsidence. With respect to water issues on your property, DOGM has not found any direct evidence that CONSOL's activities have caused such issues although there has perhaps been some potential disruption. CONSOL does not believe any DOGM citations would be appropriate.

In an effort to resolve your Citizen Complaint, DOGM and CONSOL discussed potential mitigation matters that CONSOL could provide as a good neighbor. Specifically, as noted in the attached map (Exhibit A) and the bid for work submitted by Neilson Construction (Exhibit B), CONSOL is prepared to contract with and pay Neilson Construction to do the following work:

1. Clean and place Bentonite clay in the West Pond (approximately a six inch layer over 10,000 square feet or 260 tons);

2. Mix Bentonite clay and dirt to fill a few select holes/cracks below the West Pond area as depicted in areas A and B of Map A. CONSOL understands you do not want Bentonite spread on this area. Vegetation will be stripped and the top 18 to 24 inches of top soil will be scarified, water conditioned, rolled and compacted to try and assist water retention on the surface; and

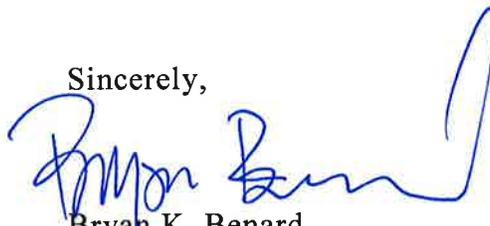
3. Install approximately a 100 foot, 15 inch culvert in the ditch that feeds the West Pond.

This potential work, as outlined in the attached bid, amounts to approximately \$21,200.00 that CONSOL is willing to pay for. Obviously, neither CONSOL, Neilson Construction, nor DOGM can guarantee that this will stop future issues with water retention from reoccurring. Also, if you accept this work, then you expressly agree that neither CONSOL nor Neilson Construction is liable to you for any future issues related to this work, so long as it is completed in a workmanlike and reasonable fashion.

To be clear, nothing in this offer or potential work that will be completed should be interpreted as, or is, an admission of liability on the part of CONSOL. To the contrary, CONSOL fully denies any liability whatsoever related to your Citizen Complaint or any other issues you claim to be experiencing on your property. Instead, CONSOL is engaged in the process and making this offer to mitigate as part of DOGM's proposal, and understands that upon making this offer, whether you accept it or not, DOGM will close your Citizen Complaint.

We look forward to hearing from you and proceeding to complete the outlined work according to the terms contained in this letter and the attached bid from Neilson Construction. Please advise in writing at your earliest convenience as to your acceptance of this proposal.

Sincerely,



Bryan K. Benard
of Holland & Hart LLP

Enclosures

7059570_1.DOC

EXHIBIT A



CNX LAND LLC

EXHIBIT A

DGM CITIZEN COMPLAINT
JOHN SUNDSTROM PROPERTY



LEGEND

- SUNDSTROM PROPERTY
- COUNTY ROAD
- (909)

REFERENCE

1. BASE MAP IMAGE FROM: GoogleEarthPro®
IMAGERY DATE 06/05/13
2. PLSS DATA PROVIDED BY UTAH AUTOMATED
GEOGRAPHIC REFERENCE CENTER (AGRC)
LAST UPDATED AUGUST 15, 2013
<http://gis.utah.gov/data/sgid-cadastre/plss/>
3. PARCEL BOUNDARY PROVIDED BY UTAH
AUTOMATED GEOGRAPHIC REFERENCE
CENTER (AGRC) PARTNERSHIP WITH LOCAL
GOVERNMENTS UPDATED FOR EMERY
COUNTY IN APRIL 2014.
<http://gis.utah.gov/data/sgid-cadastre/parcels>
4. QUARTER SECTION INFORMATION PROVIDED BY US
BUREAU OF LAND MANAGEMENT (BLM) LAST
PUBLISHED 04/11/2011.
http://www.geocommunicator.gov/geocomm/isis_home/home/PLSS_download_UTcounty.htm

SCALE IN FEET



CONFIDENTIAL

SETTLEMENT DISCUSSIONS SUBJECT TO
RULE OF EVIDENCE 408

Revision: 1 2 3	Date: 	THIS MAP IS THE PROPERTY OF CONSOL ENERGY AND MAY CONTAIN INFORMATION THAT IS PROPRIETARY AND CONFIDENTIAL IN NATURE. IT MAY NOT BE COPIED OR OTHERWISE REPRODUCED, IN WHOLE OR IN PART, WITHOUT PRIOR WRITTEN CONSENT. © Copyright CONSOL ENERGY 2001	Prepared By: CIVIL & ENVIRONMENTAL CONSULTANTS INC. Drafted By: CAC Checked By: JAG Approved By: DRAFT
		DRAFT	09/22/2014 1" = 500' 104-892.0003

EXHIBIT B



NIELSON CONSTRUCTION

GENERAL CONTRACTORS

P.O. Box 620 • 825 North Loop Road • Huntington, Ut. 84528
(435) 687-2494 • Fax: (435) 687-9721

Date: May 29, 2014
To; Consol Energy/attn: Russel Jensen
Re: John Sundstrum property mitigation proposal

Russel,

After my visit to the site and property of John Sundstrum, and meeting with Mr. Sundstrum and Pete Hess from DOGM, I have the following proposal and pricing for the mitigation of the surface cracks/holes on the property.

We would have to strip all of the vegetation form the area below (west) the pond and then rip or scarify the top 18 to 24 inches of the surface and moisture condition with a water truck and then roll or compact the area to seal the surface so that his irrigation water will not disappear into the holes or cracks.

In no way can we guarantee that this will stop future issues from reoccurring. Any future movement in the area could reopen surface cracks. The fact that he wishes to regrow vegetation in the area prevents us from placing a layer of imported bentonite clay to seal the surface.

We also propose that we would clean out the pond on the West side of the road and place a 6" layer of imported bentonite clay to seal the pond and prevent it from leaking. Mr. Sundstrum also mentioned a pond on the East side of the road. We would propose the same exercise for it but will separate the cost for it.

Summary of pricing:

Clean and place Bentonite clay in West Pond: Approx. 10,000 SF or 260 ton @ \$45.00
per ton \$11,700.00

~~Clean and place Bentonite clay in East Pond: Approx. 7500 SF or 200 ton @ \$45.00 per
ton \$9000.00~~

Hole/Crack Mitigation below the West Pond: \$3500.00
Pete Hess from DOGM mentioned the possibility of mixing Bentonite clay in a few select areas where the larger holes/cracks are located. This can be done at \$45.00 per ton if needed.

Install 15" culvert in ditch that feeds the pond West of road. \$30.00 per foot.
(estimated 100')

Mobilization \$3000.00

\$21,200 Revised total minus the
East Pond work

Please call if you have questions or concerns.
Sincerely

Eric Luke
Nielson Construction

October 17, 2014

Holland&Hart
Attn: Bryan K. Benard
222 South Mainstreet, Suite 2200
Salt Lake City, Utah 84101

Damages to Sundstrom Farm

Installation of a pipe to deliver water from the main ditch to the west pond is worst idea ever dreamed up as it would defeat the reason there is a culvert going under the road now to allow water to pass under the road and not build up and run over the road if there is a plug-up in the main ditch. There is no problem now how water is delivered from the main ditch to the west pond. This was not discussed when Eric Luke was at the farm and I will not allow this to happen.

There is no mention in letter from Holland & Hart dated September 30, 2014 about Consol Energy subsidizing land south of my farm to point that Ground water level was dropped 100 feet thus changing the normal flow of Ground water. I know that DOGM is fully aware of this. I know about subsidence because while I was a section foreman at the Consol Mine my crew did subside a couple of people's properties. This is the first time I have had any experience dealing with ground water and don't have any idea what may happen in the future. The three problems I see now was discussed with Neilson Construction Rep. Eric Luke.

I happen to believe in compromise. It is a beautiful thing, but the way things are now where no one is allowed to talk to anyone it is very difficult for it to happen. However I will try. The east pond will be in use until spring so lets set that aside for now, perhaps a simpler remedy without near the cost can be found and take care of the problems to west of the road now. I would like to have a name and phone number of someone who works for Consol Energy I can talk to.

I have lived long enough to know there are few things that never change, but there is one thing I believe will remain true and that is. Water runs down-hill.


Jon H. Sundstrom
P.O. Box 562
Emery, Utah, 84522