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March 19, 2002

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DIVISION OF  
OIL GAS AND MININGIncoming  
c/015/018

Mary Ann Wright  
Associate Director of Mining  
Oil Gas & Mining  
Department of Natural Resources  
1594 North Temple, Suite 3710  
P. O. Box 145610  
Salt Lake City, Utah 84114-5610

**Re: Energy West/Mill Fork Tract Expansion**

Dear Mary Ann:

Thank you for arranging the meeting to informally discuss potential hydrological consequences of Mining in the Mill Fork Tract. I would characterize the meeting as informative and helpful. I also appreciated Energy West's participation through Chuck Semborski.

As a follow up to our meeting, it is my understanding that Energy West will supplement its PHC as to the Mill Fork Tract with the expected volume of water to be encountered per acre mined and the expected duration of flow based on their hydrological data and experience.

Also, several at the meeting were surprised by your statement as to the limited authority of the Division to condition permits, when appropriate, with conditions designed to mitigate impact on water sources with such requirements as providing water treatment facilities to impacted water users.

While I have not undertaken an exhaustive research of the Division's authority in this area, I would refer you to Utah Code Ann. § 40-10-18(15)(c), (Water Replacement Authority), R645-301-750 (Performance Standards) and R645-300-111.311 (Permit Terms and Conditions) for Division authority for such conditions. I would appreciate the opportunity to meet with Division Counsel and discuss the Division's authority in this area before any final decision is made that the Division lacks such conditioning authority.

Yours truly,

NIELSEN & SENIOR

J. Craig Smith

cc: Board of Directors, Huntington-Cleveland  
cc: D. Kay Jensen  
cc: Dennis Ward  
cc: Eugene Johansen  
cc: Darrell Leamaster  
cc: Chuck Semborski