BEFORE THE ~~BOARD~~ Division OF OIL, GAS AND MINING

DEPARTMENT OF NATURAL RESOURCES AND ENERGY

IN AND FOR THE STATE OF UTAH

IN THE MATTER OF THE SEAM APPLICATION OF CO-OP MINING COMPANY, BEAR CANYON MINE, EMERY COUNTRY, UTAH.

CAUSE NO. ACT/015/025-93B

ON THURSDAY, SEPTEMBER 9, 1993, COMMENCING AT THE HOUR OF 9:00 A.M., A HEARING WAS HELD IN THE ABOVE MATTER BEFORE THE ~~BOARD~~ Division OF OIL, GAS AND MINING, 1636 WEST NORTH TEMPLE, SALT LAKE CITY, UTAH 84180-1203.

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263-1396

LINDA J. SMURTHWAITE, CSR, CM

APPEARANCES:

CONDUCTING: JAMES CARTER, Director of the Division of Oil, Gas and Mining

FOR CO-OP: KARL KINGSTON, ESQ.

FOR CASTLE VALLEY SPECIAL SERVICE DISTRICT: JEFFREY APPEL, ESQ.

Salt Lake City, Utah, September 9, 1993 9:00 a.m.

MR. CARTER: Let's begin. I'm temporarily without the file, so I'll have to ask all of you to make your appearances for the record. This is a -- I also don't have the file number which I'll make sure it gets attached to the record so we have a complete record. So I'm, just by way of introduction, I'm Jim Carter. I'm the director of the Division of Oil, Gas and Mining. And this proceeding was brought about by, initially, by the application of Co-op Mining Company for an amendment to their mining permit to allow mining coal from the tank seam. I was going to say tank canyon, but tank seam.

That requires them to file lots of documentation and technical information with regard to that activity. We're also required by the Utah program to provide notice and an opportunity for hearing to all those who are interested in that application, and we received requests for informal hearings with regard to the hydrologic issues raised by that application from, I believe, Huntington Cleveland Irrigation Company, and from Mr. Appel. Will you remind me?

MR. APPEL: Castle Valley Special Service District.

MR. CARTER: Both of those entities are here today

and represented, as is the applicant Co-op mining. Is there anyone else who plans to make a statement that would like to identify him or herself at this point? Well, you don't need to, we'll be able to take any comment you want to make.

Those two entities, however, did file protests within the statutory period and so they're entitled to appear as Protestants. This is my first experience in conducting a hearing like this one. I'm -- we have some of our technical people here who can answer questions if you have them with regard to the status of the application.

But my understanding is that the application has been determined to be complete, and we are now in the process of consulting with other jurisdictional agencies for obtaining necessary information in order to make a determination as to whether or not to grant the application.

MS. GRUBAUGH-LITTIG: Or technical adequacy.

MR. CARTER: That's the next step. All right. So we have completeness and working on technical adequacy. So these comments and the documents that have been submitted so far will become part of the record.

I think probably the way to proceed would be to

allow one or the other of the Protestants to appear, and make whatever statements or offer whatever testimony they would like for the record, and we'll allow Mr. Kingston, who is appearing for the applicant, to ask questions of those witnesses, and make a statement as well, if he would like to.

Let's begin with Mr. Appel. Would you come up and identify yourself.

MR. APPEL: My name is Jeffrey Appel from the law firm of Appel and Mattsson. I'm today representing Castle Valley Special Service District, I believe Huntington City, Huntington Cleveland Irrigation Company and Elmo.

Rather than spending a great deal of time myself, I have with me Darrel Leamaster who is the manager of the Special Service District, and Bryce Montgomery, a professional geologist. I think a give and take, which is proper in this setting I believe between yourself, Mr. Carter, and them would be appropriate. They have presentations to make about the company, the nature of it and what we believe the geologic scenario is.

I'd like to reserve the right to sum up at the end.

MR. CARTER: Certainly. We'll try not to make this too formal, but keep in mind my most recent

experience was as chairman of the Board of Oil, Gas and Mining which were formal proceedings, so we'll try to loosen this up a little. Mr. Leamaster.

MR. LEAMASTER: Yes, thank you. My name is Darrel Leamaster, I'm a professional civil engineer. I've been employed by Castle Valley Special Service District since 1977 in a position as their general manager. I'd like to make just some general statements so you're a bit more familiar with the Castle Valley Special Service District. We are a regionalized water and sewer district; we also maintain roads. We have 7 communities in western Emery county that we're responsible for. Included those 7 communities are the communities of Huntington and Cleveland and Elmo.

We have filed an objection in this proceeding basically around water issues. We are concerned with the quality and the quantity of water that we receive now from a major source supply called the Big Bear Spring. The Big Bear Spring is located half to three quarters of a mile from the port of the Co-op mine. The Big Bear Spring has been a vital part of the water supply, really since about 1921.

In 1921 it was developed by Huntington City, put in operation and it has been in the system continuously since that time. We provide, with Big Bear Spring

water, for -- there's three communities I've mentioned, Huntington, Cleveland and Elmo. The Big Bear Spring provides about a third of our water supply, around 34 percent of our supply. And we have approximately 2600 people that we're serving on the system at the present time.

I want to emphasize to you how important Big Bear Spring is to us. As I mentioned, it's been on line for over 70 years, and for 365 days of the year, 24 hours a day, this spring's producing a top quality water supply. It's a water supply that takes very little maintenance, very little operational costs. There are some costs involved with sampling, testing, routine maintenance of the spring boxes and that kind of thing. But compared to other sources of supply that are available from surface waters, it's an economic advantage to have a spring like this.

And so I can't emphasize enough how important this thing is to us. And the other problem is, is that in the area there are just no other springs comparable to it that could be replaced with. So it's a one of a kind type thing that if it is damaged or quality gets to a point where we can't use it, it's not replaceable. That's one of our major concerns, is that if something does happen to that supply, what would we

do? It would be an extremely tough situation for us.

So that's the reason for the tremendous concern that we have. We are really concerned about the quality of the water. If some contamination did occur to the water, it could be extremely tough to detect that. We don't have continuous monitors on those springs that would indicate that we had a problem. And probably the first indication that we would have that a problem exists, would be when we started receiving complaints from our customers. That's what happens, the springs come out of the mountain, go right into a spring box, immediately go into our transmission lines, down into our system, and then right immediately to our customers. So, there's a tremendous liability involved there not only for us, but also for the Co-op mine.

MR. CARTER: You don't chlorinate the water?

MR. LEAMASTER: It is chlorinated, chlorinated about three quarters of a mile from where it comes out of the spring box.

MR. CARTER: What is the flow, the average annual flow rate of the spring?

MR. LEAMASTER: Well --

MR. CARTER: I'm trying to get an idea how big a spring it is.

MR. LEAMASTER: I'm not sure how to answer that.

It's around 116 gallons a minute which is among the lowest flows we've ever recorded. We have recorded just below a hundred gallons a minute. Maybe your question would lead me into a chart that I have here; that we are concerned that we've already been affected by the operation at the Co-op mine. And I'm not really sure how to do this so everybody can see this. Maybe I need to stand over here. I might also mention that Bryce Montgomery is going to show more detail on this, but just as an introduction, let me point out what I have here.

This is a typical curve from the Big Bear Spring, this January, February, March, all the months through December. And I plotted a couple of years, I plotted '83 and '85. '83 is the pink line, and 1985 is the blue line. I didn't particularly pick those for any reason other than they were more before the mining operation that really affected us, and they were periods when we had a pretty good water year, hydrologic cycle.

The thing I wanted to point out on those is we have what we consider a typical curve for the flow out of that spring, that it dropped down in the late winter, early spring months and comes up and peaks in May, June, July months and drops back down. We've seen

this typically in other springs in the area. It's defined in the literature by several people who have done studies there.

So that's what we consider more of a typical type of flow curve for that spring. The green line was the 1992 flow, and you'll see in some which -- that Mr. Montgomery is going to present later -- this flow has gradually gone down and down and down each year. The yellow line is where we are in 1993 through July. And I want to contrast that now to what's happening in some of our other springs. This curve is basically the same thing. We plotted months along the bottom flow rate along this side. What we have plotted here are three different springs. The top green line is our Little Bear Spring. This is located up the canyon somewhat from the Big Bear Spring. And that's the green line. The pink line or red line is the Rilda Spring. That's a spring that's owned by north Emery Water Users Association, and is pretty much across the canyon from the Big Bear Spring. The blue line is our Big Bear Spring. And the contrast that we are seeing here is Little Bear Spring has responded back up to a more normal flow path; the Rilda Spring has done the same thing and Big Bear has stayed essentially a straight line.

We think that is because of the effect of the Co-op mining on our spring. We think they have cut off part of our supply to the spring and therefore it's not responding in its normal pattern like it should, like the other springs have.

Now, in years gone by, you asked about the flow, we typically ran up around 200 gallons a minute. I think the lowest flow that we'd ever recorded before was in 1978 when study was done there for USGS and they recorded 110 gallons a minute at that time right after the 1977 drought. We have recorded flows recently lower than 100 gallons a minute which is the lowest we have ever seen.

So our point that we're trying to make is, and Mr. Montgomery is going to bring this out in more detail, is we feel like that we have already been affected at that spring, that the flows are less than we would normally expect, and we think that there's already been a problem.

I'd like to talk just a little bit about the overall area, Huntington Canyon area. This type of problem that we're seeing with Co-op is somewhat typical with the problem we have seen with other mines in the area. We have three spring supplies, we have Big Bear Spring, we have the spring at Tie Fork Canyon

and the Little Bear Spring. We have been concerned with all three of these springs, and we did file a protest with Plateau Mining, and Plateau Mining has been very up front with us, very cooperative with us. We worked out an agreement with them that they delivered to my office yesterday that we expect to sign within the week.

Basically what Plateau has said is we recognize there may be a problem, we don't know for sure if it's going to occur or not, but we want to address it up front and handle it up front. And so we have worked out this agreement. We have found other sources of supply that we're going to be putting in and take that spring out of the system until they finish mining.

Our other spring over at the Little Bear Spring is fairly close to Genwal Mining Company operation. We have had some concerns there. We have made some objections also to some of Genwal's plans and again they have taken a very positive attitude. They have met with us, they have had us come up and go through a tour of the mine with the geologist and hydrologist and had a very positive attitude about working things out with us before.

And contrast to that has been the experience that we have had with the Co-op Mining Company, where their

attitude has been we are not going to interfere with the spring, let's just ignore the situation and that it's even there, and let the chips fall as they may, is basically how it's turned out.

So as a result, we've been in front of DOGM back in 1980 when they originally applied to open the Bear Canyon Mine; in 1991 when we were here again, today protesting the operations because we are so concerned with this vital supply of water.

We're caught in a little bit of a dilemma here. The state Division of Drinking Water just recently passed for federal guidelines what they call the drinking water source protection rule. And I don't know if you're familiar with that rule. What it requires us to do is to look at each one of our water supply sources, and define what we need for a proper protection zone for each of those sources of supply. We then have to, once we have defined that protection zone, we have to do an inventory in those areas to determine what potential contamination sources exist there, and then merge those sources to prevent, in the future, contamination.

We also have to -- I have trouble with my voice -- excuse me.

We also have to identify what it would cost us to

correct any of those problems and how we might correct them. So we're just in the situation now where we are starting to develop that source protection plan. And as we start that, immediately we see that the Co-op Mine is right up stream and adjacent to this spring and in there with potential contamination. So we're caught in the middle here of what do we do? We have to come up with this for the Division of Drinking Water and we're stuck in the dilemma here of what we do with this Big Bear Spring?

I guess the whole thing really boils down to the question that's a tough one to answer; do we want to contaminate and lose a drinking water supply source to 2600 people, or do we want to allow the mining operation to continue? And it's a tough question. We're not, certainly do not want to go put the Co-op out of business, they are of important economic value, they employ a lot of people and put a lot of money in the economy. But on the other hand, when they finish mining their last ton of coal, the communities of Huntington, Cleveland and Elmo are still going to be there and need a water supply. And we think it's extremely important that we take all the steps we can to protect that supply and keep it there.

I think that pretty well concludes the remarks I

wanted to make, and I'll turn the time over to Mr. Montgomery.

MR. CARTER: Thank you.

MR. MONTGOMERY: My name is S. Bryce Montgomery, I'm a professional geologist consulting for the Castle Valley Water District, Special District. I've been involved with this problem of the mining relationship to their water supplies for the last few years, and have done previous studies and prepared reports for the district and have been before the Oil, Gas Division before in a hearing similar to this.

Even though this latest request to mine the upper seam, upper coal seam above where the present workings are, the tank seam, and even though it is up within the first aquifer zone where the principal ground water table and potentiometric surface is not intersected by this upper mining operation, nevertheless, it is within the contributing zone to the principal aquifer.

And I'd like to take just a minute to review and present before you Mr. Carter, the fact that the Big Bear Spring, the Birch Spring and other principal springs in this area actually flow from the regional aquifer which is, you might say, in the bottom of the drainage system of the ground water aquifer system. All of the other aquifers up above that are more in a

perched state to some degree and contribute to this lower region aquifer. And so my reference in discussion here is principally towards the lower regional aquifer.

Now, the lower regional aquifer actually involves in the very bottom, the Starpoint sandstone which is made up of three members that overlie the Mancos shale. This is a simplified diagram that I've prepared here that shows this interrelationship. In addition to the Starpoint standstone which immediately overlies the Mancos shale, we have the Blackhawk formation immediately above that. And as you get back into the ground water system in the direction of recharge, then the Blackhawk formation also becomes a part of that regional aquifer system.

Both studies done by the U.S. Geological survey to the north by Mr. Wadel as water supply paper 2246, and also to the south by Mr. Lyons and others, water supply paper 2259, have shown that this in fact is the case, that the Blackhawk formation in which the coal occurs in which they're mining, is a part of this regional aquifer system once you get back from the mountain front into the main water storage.

Mr. Danielson who previously, before these two studies, did a study in this immediate area, also

referred to this as a regional aquifer system, but he indicated that more data was needed to confirm this. Since his study, Mr. Danielson's study in '81, these two other studies have been done which indeed outline the fact that the Blackhawk formation is a part of the regional aquifer system. And as the coal mining extends back into the mountain, then it extends into the area of increased storage and also increased hydrostatic head. And as the coal mining continues back into the main storage of this regional aquifer, the head increase as well as the storage increase allows more water to be intercepted and the flows increase.

All of the mines, the major mines that have intersected this regional aquifer show that this occurs. And Co-op mine is not an exception. As they've increased their mining back to the north in the direction of recharge, their intercepted flows from the mine have gradually increased. And as I understand, in the latest report that they prepared for the tank seam, they indicate that they are now intercepting 500 gallons per minute, whereas a few years ago it was only 100 gallons a minute.

The study done by Mr. Wadel and others to the north, the U.S. Geological survey, was principally done

to show what effect the mining in that area would have on the water resources. And it involves -- the study involves the same formations that are present here in the Co-op mine and that supplies water, ground water to the Big Bear Spring and the Birch spring and other principal springs in the area. The springs that hold up and flow continuously year round come from this regional aquifer, and they're located in the lower part of the aquifer system, down not too far above the Mancos shale contact.

And in contrast to this aquifer which has a high storage capacity, other aquifers that may be up the geologic column, their storage is not as great and so seasonal variations affect them more rapidly and the regression curves of flow from these springs show a more erratic picture or pattern in comparison to the regression flows from springs discharging from the regional aquifer. The flows from the regional aquifer do show the effect of cyclic variations from precip to decline later in the year, but they're more gradual.

And it was on this basis that Mr. Wadel and others said that they would be able to determine whether certain coal mining operations there in the north had actually affected this regional aquifer because of these regression curves of flow. I have prepared

charts showing how these flow curves vary from one time of the year to the other and also from one year to the next. And this chart here actually covers the years 1983 through to the present, 1993. The black lines represent the earlier years. You can see how that there is a definite -- this is in the Little Bear Spring by the way which is located back off on the west side of Huntington Canyon some distance away from the mining operation, and it has not been affected by mining operations, so it represents a baseline type situation. So you can see that there is a hump during the months of May, June, July and August and it starts to drop again. That's the natural condition.

Now, due to drought, which occurred in the '80's, late '80's, there has been a decline effect and this shows it, but this effect of the drought really didn't show up on this Little Bear Spring flow record until the year 1990. It takes a while for water, once it enters the surface from precipitation to get down and reach and have an affect on where it discharges from this main aquifer.

MR. CARTER: Little Bear Spring is in the Starpoint sandstone?

MR. MONTGOMERY: Yes, it is. And it's located -- I have a diagram here showing the relationship. This

is looking westward, and this drainage right here is Huntington Canyon, and these heavy lines are principal fault lines. This is Bear Canyon fault and this is the Pleasant Valley fault and Joe's Valley fault here. This is all mountainous area here, and the water, the precipitation falling, as I show in this cross-section, precipitation falling works its way down, that amount that is able to infiltrate that doesn't run off. The principal avenue for this movement of water from the area of precipitation and infiltration is through fractures and faults because we do have inner beds of shale which tend to act as barriers, but the faults cut these beds and allow water to move vertically down.

The regional aquifer, including the Blackhawk formation in this area is at the bottom of this drainage system, and so there is a potentiometric surface or ground water surface high up towards the area of infiltration. It gradually moves down towards the bottom of the drainage, very much like the slope of the topography. So the Big Bear Spring is located here just west of the Bear Canyon fault, Birch Spring and other springs in that vicinity, and Little Bear Spring is located over on the west side of the Pleasant Valley fault.

MR. CARTER: Is the spring location tied to the

faulting? Are the spring locations tied to the faulting?

MR. MONTGOMERY: Certainly they are and most of these springs, if they're not directly on a fault, they're on a joint system that ties into a system nearby. And so, getting back to my chart again, even though there was an effect on Little Bear Spring by the drought, this affect really was not pronounced until 1990.

MR. CARTER: Did the curve shape remain pretty much the same?

MR. MONTGOMERY: Yes, but the flows have diminished, as it shows here. The red curve was 1992, and the green curve was 1993, proceeding to here.

MR. CARTER: You still see spring peaks in the shape of the curve?

MR. MONTGOMERY: The shape of the curve is the same but much depressed due to the effect of the drought.

MR. CARTER: Right.

MR. MONTGOMERY: Now, going from that then to the Big Bear Spring -- by the way, I'd be glad to furnish copies of these to you if you'd like.

MR. CARTER: I think we probably ought to have those as part of the record.

MR. MONTGOMERY: You bet. Going to the Big Bear Spring now that lies directly -- let me go back to my diagram here. It lies directly down gradient from the Co-op Big Bear mining operations. Here is the spring here and the mine is immediately up gradient, and the recharge, of course, is back to the north. So the gradient, the ground water gradient is from north to south.

Moving right through, the Co-op mine is right in the flow path of this gradient towards the spring. Actually, that operation, Big Bear Mine, as I understand, Co-op started that in 1986. In 1987, there was a definite decline that you could see. In contrast to the natural conditions seen in Little Bear Spring which didn't occur in 1990, 1987, immediately there was a decline in the flow of Big Bear Spring which flows immediately, right immediately down gradient from the Co-op mine.

In addition, as Darrel Leamaster pointed out, since those years, since 1987, those curves, discharge curves have all remained low, successively. They never have bounced back like they did prior to 1987. Darrel showed you what had happened just for one year. Well, this shows several years from 1983 to the present. And so those springs are continually going down in their

yield since 1987. So not only have they been affected by the drought, Big Bear Spring been affected by the drought just as Little Bear Spring was, but also it's been affected by the fact that water has been intercepted out of the ground water system by the mining operations, brought to the surface and dumped into the stream.

MR. CARTER: Why would it flatten out the peak like that? Why would you have an absence of seasonal peaks?

MR. MONTGOMERY: The fact that they are located right, they're in between the recharge area and the discharge area which is the spring, that has affected that natural system that you see operating in Little Bear, and that's the only answer I have. Before the mining operations you had a peak, but now it's pretty much flattened out and stayed flattened out.

The water that is diverted from the ground within the mine, is then taken out of the flow path, the under ground flow path that originally existed, and part of that water exited as the Big Bear Spring, and perhaps some of it exited directly where you don't see it and it flows towards Hurricane, or I mean the Huntington creek.

As I mentioned earlier, the fact that the

intercepted amount of water has increased as the mining operation continues back into the north and back into the aquifer deeper, you have an increased head which allows that water to flow more freely. Now, even in an aquifer with a large storage, coefficients such as the regional aquifer where you don't have impacts show up as readily. Nevertheless, over the long term the potentiometric surface is being lowered by the drainage effect of the Co-op mine, and the effect is really long term on that aquifer in this immediate area, and the spillage from it, which Big Bear is part of that. So that effect is going to be long term. Even though it's slow, it will last over a long period of time.

Now, in the studies done for Co-op mine by Earthfax, they have referred to a regional aquifer which they maintain exists below the Blackhawk formation. In fact, the statement was even made that it exists below the contacts between the Starpoint and the Mancos shale, which I don't quite understand, because certainly the Starpoint is part of that regional aquifer. But they make the statement that in their report that the regional aquifer is at a position lower than the contact between the Starpoint and the Mancos. And I don't know of any aquifer units below there within reasonable depth that would actually

service an aquifer. The Mancos serves as a very effective seal for this aquifer system.

Now, in addition, as this water that is moving through the subsurface is interrupted by the mining operations, not only the flow, part of that water is diverted out of the mine and into the creek where it doesn't continue. But any contaminants introduced can be conveyed by the moving ground water towards Big Bear Spring. And as I mentioned to you, the principal flow, the principal method of flow through the aquifer system is through joints and faults. Even though there's a certain amount in the pinter (sic) granular permeability, it's very small compared to the joints and faults. That's the main avenue.

I would emphasize that it would be very important if I was in Co-op Mining's position, to want to know where this discharging water that they're now taking out of the mine naturally exited prior to their operation. Where did it flow and exit to? Certainly there was an exit to it because this ground water that they're intercepting in the mine is high quality, dynamic, not stagnant water. It's moving through. Not only was it active from the very point of infiltration in the recharge area, but it's discharged and spilled from the aquifer system and maintained a good

circulation because the water is high quality. And I would think that they would want to know for sure where this water was exiting naturally before they started their mining operations. That should be a big concern, I would think.

I believe that covers what I have, but there may be questions later on.

MR. CARTER: Thank you. We'll try not to make this too formal. I think we'll allow an opportunity for dialog if that seems to be helpful. And I think if we can get copies of your diagrams that would be real helpful for the record. And I'm assuming we have access to publications, hydrologic publications that Mr. Montgomery mentioned. Great. All right. Mr. Appel, maybe what I should do is let Mr. Smith proceed and let you make a closing argument. I think you may want to respond to what Mr. Kingston has to offer.

MR. APPEL: That's what I'd like to do.

MR. SMITH: Thank you. My name is Craig Smith; I'm with the law firm of Nielsen and Senior. We represent Huntington Cleveland Irrigation Company and also represented north Emery water users. We share the concerns that have been expressed thus far about the hydrologic consequences that may come about if this permit is granted.

We have several different parties, but as I understand the relationship between the Huntington Cleveland Irrigation Company and the Emery, north Emery water users and the Special Service District, is that Huntington Cleveland Irrigation Company is the actual holder of the water rights in this area, and the other entities are purveyors of water that is owned by Huntington Cleveland. And as I understand, north Emery water users provide water to the unincorporated areas of the north Emery areas, but these are rights held by Huntington Cleveland Irrigation Company. And I understand the same thing with the Castle Valley Special Services District, also provides culinary water but these are from water rights and the water rights we're talking about in Big Bear and other springs are water rights that are held by Huntington Cleveland Irrigation Company.

It is a nonprofit mutual water company. It is the major holder of water rights in the Huntington Creek drainage. Among other things we operate the Miller's Flat reservoir and the Cleveland Reservoir. So this is a very critical, important thing to all the entities involved because of the scarcity of water and the fact that this drainage is literally linked by mining operations in addition to this operation. We have the

Plateau Mining Operation that was mentioned before, and we've filed a protest on behalf of their extension of their permit. We also are impacted by mining operations by Utah Power and Light's mining operations and also by the Skyline Mine. And so everywhere we look we have mining operations, and we have a very limited source of water. And while we, as was stated by Mr. Leamaster, appreciate and understand the importance of the mining industry in our area, in the Emery county area, also water and quality of water is of critical importance to the areas as well. Without water, obviously people couldn't live in or farm in that area. And we provide the water that people both farm and drink in that area.

We join in the comments that have been made. I won't make technical comments, I'm not a hydrologist or geologist. But to point out some of the legal aspects under the regulations, the probable hydrologic consequences must be known before a permit can be issued or extended. And that's found in R 645-301-700 on the hydrology. I think it's been pointed out, there are questions about the impacts and extent of the impacts on the water rights of -- on the water table and the water rights in this area. And there needs to be further study of that.

Also, I'd like to point out in rule R 645-300-133.400, cannot permit -- grant permits if material damage will occur to the hydrologic balance outside the permit area. And I know this is fairly new, at least to my experience, I think also to the Board's experience or the Division's experience, these kinds of hearings and concerns, so we're breaking some new ground. But these are of critical importance I think to everyone. And we also would like to -- I guess I have a question. Is any of this permit area in the U.S. Forest or all outside the forest? Would you know?

MS. GRUBAUGH-LITTIG: Currently outside the forest.

MR. SMITH: Because there are also some more tests and regulations that wouldn't apply, but the BLM, this is partially on BLM property I would guess?

MS. GRUBAUGH-LITTIG: There's what we call the federal lease edition, but they don't have that yet.

MR. CARTER: For the record, that's Pam Grubaugh-Littig, permit supervisor and responsible for this application.

MR. SMITH: I'm not familiar with all the studies that have been mentioned, but I'm familiar somewhat with the mine study and I was a little bit surprised

that's not talked about or discussed in the probable hydrology consequences that were submitted by Earthfax engineers in 1993. Those studies are available. I know they're available to everyone because Earthfax used those studies in a critique that was prepared for Huntington Cleveland on the Plateau permit application, or Cyprus application. And I would suggest that critique, even though it is in a slightly different area, contains important information, and ask that that be -- that has been submitted to the Division, and ask that that be considered in some of the technical information that's found there. That's our presentation.

I guess to sum it up, we're just concerned that because some of these may be irreversible or take from, as Earthfax found in our critique, some of these impacts may take from tens of hundreds of years to reverse themselves, even if the mining only occurs for a few years. We would just ask that the Division be very prudent in gathering information, and that we understand, we fully understand what the impacts are, and before something is granted, that would impact our water rights. It may be very very difficult once that happens to mitigate these impacts, both water quality wise or quantity wise because of the very limited

amount of water in the area. And so, before something is done, we would hope that all of the facts are known to the division. Thank you.

MR. CARTER: Thank you. Let me ask a question. I don't want to put you on the spot, but --

MR. SMITH: Go ahead.

MR. CARTER: This is something I've not researched either, but to the extent, in the event a mining operation intercepts water that's on its way to a spring which is a legal point of diversion -- Jeff, feel free to jump in on this -- does that water lose its identity or does -- I guess what I'm saying is, if Huntington Cleveland owns the water rights and that water is intercepted by mining operations and now comes out the portal instead of coming out a spring, does Huntington Cleveland or the other water right owners retain ownership of the water, or have they lost it because it's coming from some source other than their designated point of diversion?

MR. SMITH: I've had some discussions with the attorney general's office and the answer is not very clear on this. You certainly have, as far as an interference, a right to go to the farthest reaches of the drainage to fulfill your water right. The ground water is treated somewhat differently, but there are

some of the same thoughts. The answer I got, did get from the attorney general's office, and this is the folks who advised our state engineer, is that they would consider this an interference with the water rights and we could potentially lose that water right unless we were able to put it, you know, obtain a nonuse permit for something like that. They would consider, if this water was taken so you couldn't use it, you could lose it through nonuse for five years under the statute.

They were not able to give me a good reading on what they consider the law to be, and my research didn't uncover any Utah precedent as to whether you could then go to this other point of diversion. I would think you would at least need to have the administrative process allow that. So we're in areas that there's not a lot of settled law on, both here and other places. That is some of the questions we have and the question we put in our protest is, where would this water go?

Certainly just because someone intercepts it from mining doesn't give them the right to use that water. If they interfere with our water right we have a right, I think, to either obtain another point of diversion and take it that way. And those are some of the

questions we'd like to have answered, is where this water will go if it is intercepted in the mine. And so Jeff, do you have a better answer to that question?

MR. APPEL: I don't know if it's better, but I think that certainly they can't interfere with the vested water right unless they have a water right of better priority which in this case that's not the case here. There are two components at least to an interference; one is quantity and the other is quality. So we are entitled to have both quantity and quality delivered from our point of diversion, or I suppose a replacement source could be negotiated or money can be paid. That impact on the company shouldn't change because we have historical water rights. If this water is being intercepted, which all of our data shows, and taken out and perhaps dumped in the Big Bear spring, although there is 200 gallons, it may be used for mining purposes. I'd suggest that would impact the quality compared to what it was when the mine was not there. You're also draining the aquifers and sending it out to a different point. So, the idea of treating Big Bear creek might be an option, but certainly we shouldn't bear the cost of that. We need to have the quantity and quality that we historically received.

MR. CARTER: Let me say for clarification, that I am not the state engineer. I'm not even an engineer. The Division lacks jurisdiction over the water rights issue. Let me make this clarifying statement for the record. The Division doesn't have an ability to adjudicate claims based on interference of water rights. The Division's job is to determine, now that probable hydrologic consequence document has been submitted by the operator, the Division must generate a cumulative hydrologic assessment, which is -- we take this information that we're getting now, and make a determination, or administrative determination, as to the hydrologic impact of the requested application.

And at that point, as you pointed out, we need to determine whether or not we can permit, based upon whether damage -- the terminology was significant damage -- occurs to the hydrology outside the permit area. So that's the limit of the Division's jurisdiction. But my natural curiosity about these things makes me ask these questions.

MR. SMITH: We are in kind of a gray area, and I think your question leads to something I'd like to point out for clarification. There really is probably two components to mitigating impacts on the water rights here. One component is most critical to the

Castle Valley Special Services District, that's that they don't lose their good quality water, and they can correct me, they don't lose good quality; if they do, there is some sort of treatment or way they can replace that at no cost to them.

From Huntington Cleveland we are also concerned about quality, but more concerned about it because we are the holder of the water rights, that we don't lose water quantity, and we could be. The other component is can we get this water, if it is diverted from a spring, can we get this back into our drainage system so we can use this water and get approval from the state engineer to change our point of diversion; whatever we need to do so we don't lose this water right to someone else who comes along and says, this is a new source of water, I'll file on it.

Those are the two components. As I notice in mining sometimes they haven't focused. There are two -- these two components and any kind of mitigation that would be satisfactory to all the parties here has to encompass and embrace both those components.

MR. CARTER: Thank you. I'm -- what I'd like to do at this point is take a short break and give our reporter a rest.

MR. LEAMASTER: You are talking about the impact

on the water rights. Water may be moved to the mine portal for our consideration. As far as using it as a potable supply, that becomes a real tough question, and I'm sure the Division of Drinking Water would have to be involved in that. They would approve that, after it had been in the mine subject to possible contamination, as use for a drinking water source.

Now, there is some precedent in that regard, because the Hiawatha Mine, they did allow Hiawatha to use water from that mine and also at Park City they have allowed that. But I don't think that we could say for sure that they would allow that to be used as a culinary source because it is questionable.

MR. CARTER: Okay. I was city attorney at Park City and I'm very familiar with problems Park City has with their water supply. Let's take a ten minute break, and we'll allow Co-op to make a presentation, and anyone else who wanted to add something for the record, and then we'll allow some closing statements or arguments by Protestants and by the applicant as well.

(Whereupon a recess was taken.)

MR. CARTER: All right, let's resume the informal hearing. At the break, I was handed a list of attendees at the meeting and several other people have indicated an interest in making a statement for the

record. What I'd like to do is allow the applicant, Co-op Mining, represented by Carl Kingston, to present whatever evidence or testimony they would like to, and then after that allow the few other people who indicated an interest in making a statement to do so. And then I think I'll provide time for the attorneys to make closing arguments, because they like to do that, so let's proceed in that manner. Mr. Kingston.

MR. KINGSTON: Thank you, Mr. Carter.

My name is Carl Kingston, I'm the attorney for Co-op Mining Company. I'll try to keep my opening statement brief, in the interest of time.

I do want to make a couple of points. First, I want to dispel a notion that Mr. Leamaster raised regarding Co-op's apparent refusal to negotiate. That's never been Co-op's policy and won't be Co-op's policy. I don't anticipate that the remarks will become heated, but if they do, I want to let Mr. Leamaster know we are always open to negotiate and discuss. Our position at this hearing is basically this, with regard to the Protestants. We filed the application to amend the permit. We never heard from anybody. The day before the comment period expired, then we received a protest. So, it certainly hasn't been our unwillingness to negotiate or discuss. We

haven't heard any objections from anybody until the protests were received formally through the mail.

The second point I think that is important, Mr. Carter, is that all of the evidence presented by the Protestants go to alleged impact from the mining and the Blind Canyon seam. The issue today is very narrow, and that is what hydrologic impact, if any, will occur if the permit is amended and the tank seam is mined. None of the evidence has indicated any possible impact from mining in that seam. Now, when we received the protest, we met, and quite frankly we were a little bit dumbfounded to think that anyone would have any reason to protest, and we wondered what would the objections be. And after hearing the evidence today, I can see that our initial concern and wonderment was well based because there is none.

The alleged impacts concerned the mining in the Blind Canyon seam which they are currently mining, they don't go to any possible impact from the tank seam.

We will have witnesses make statements and they will address those concerns, even though they are concerns regarding the current mining and don't really address or concern the intended mining in the Tank Canyon seam.

But basically, just for the record, what Co-op

Mining Company intends to do, and what they have petitioned the Division to do through the amendment, is to mine a seam of coal that is directly above the seam of coal they are currently in, within the same permit area. And they are going to do this in such a way, it's fairly unique, but in such a way that will create the least impact possible to the surface or to the environment. And our studies have shown there will be absolutely no impact to the hydrology.

What they are proposing to do is construct a road from the existing surface faults, where they're mining, up to the Tank Canyon seam, and my understanding is that's about 250 feet directly above the Blind Canyon seam. They will construct a very minimal pad area, just enough to get the equipment in there and for the portal. And in mining the Tank Canyon seam, what they are going to do is, once they get inside that seam, tunnel down from inside down to the Blind Canyon seam, so that all of the coal that will be mined from that Tank Canyon seam will be conveyed through that tunnel or shaft, and then conveyed out through the current tunnel area on the existing belt and conveyance system. So there will be no surface impact except for the road to get up and a little portal area.

Now, as most of the Division members will recall,

current director excluded, we did have a protest, and these same issues were raised about two and-a-half years ago by the same Protestants. As a result of that protest, Co-op Mining Company spent literally thousands and thousands and thousands of dollars in conducting studies, performing tests, and doing research work to find out just what possible impact, particularly hydrologic impact, the mining activity would have. And as the people who are here today that testify will state, that hydrologic impact in the past has been minimal, and that impact in mining the Tank Canyon seam will be almost nil. In fact, all of our evidence shows there won't be any.

What we have done, we've drilled, I believe it's eight separate holes up in the Blind Canyon seam where they are currently mining, up into the tank seam, and even through the tank seam, to find out what water will be encountered in the tank seam, and essentially that's dry. The eight holes, I think seven are either dry completely, or they yield less than one tenth of one gallon per minute of flow. The other hole yields .5 gallons per minute flow of water.

So essentially, when they mine that seam, it's going to be dry, they won't encounter water, or even enough water to cover what needs they have to carry on

mining activities. They anticipate they will have to pump water from the Blind Canyon seam up to the tank seam.

Also, our tests have shown, and our geologist will so testify, that the water that has been encountered in the Blind Canyon seam is not the same water that feeds the Birch Spring or the Big Bear Spring or any of the other springs or water sources that go into the protestant's water system.

Now, I also want to state that the employees of Co-op Mining Company, along with the management, they live in the area, they drink water too and they're concerned about the water quality. And that again leads to my earlier statement that they're certainly willing to negotiate because of the concern they have. They drink the water, they use the water, and if there is something there that they can do to improve the system, they're certainly not unwilling to do that as long as everyone has an open mind.

And there was also a question raised regarding that water quality. The water quality of that water that has been encountered is superior to that in Big Bear Spring. It has been approved by the Utah Board of Health and that water is being used for culinary purposes there at the mine site by the people and those

who live nearby. So there's nothing wrong with the water quality.

Now, they have done tritium tests. We have drilled a number of wells, monitoring the springs, monitoring wells, and all of the evidence that we have been able to uncover scientifically shows that the water that they have been going through has been -- well, I was going say new water, but that's a misnomer, because it's older water than anything there. It's been perched water, sitting there hundreds of years probably. And the water they have encountered at the Bear Canyon mine, it was there when they started, it's there now, but it's not water that goes in to the tributaries that feed the Huntington Cleveland Irrigation District or the Castle Valley Improvement District's water. The water there is new, in a sense that it's different from that. By developing the mine, they have actually developed additional water, and it hasn't diminished the spring flow or anything else. That's a result of our droughts, and our experts will cover that.

And the quality is better than what's out there. The discharge is going back into the system so it's actually been a plus or benefit to the mining operation.

But the main thing that I want to stress to the Division now, is that the evidence really doesn't go to the issue. There hasn't been anything to show by going into the same permit area and simply mining a seam above the existing seam will have any hydrologic impact at all. And in the manner they are going to do it, it will create the least disturbance of any surface area as a resource that should be mined.

I think that I'll ask John Garr, who is a geologist with Earthfax, to make a statement next. Earthfax is an independent firm, I think highly respected in the area and knowledgeable. They have done some tests. We also have Mr. Richard White who is also with Earthfax, who is a geologist. If necessary, he can also offer statements or answer questions if anyone from the Division has questions, or if any one of the Protestants or anyone else here in this room has questions regarding the hydrology or geology, they can address those to Mr. White or Mr. Garr. After Mr. Garr, I'll ask Mr. Charles Reynolds to make a statement. He is from Mangum Engineering, also an independent firm. So with that, I'll ask Mr. Garr to come forward and make a statement.

MR. CARTER: All right.

MR. GARR: My name is John Garr, I'm with Earthfax

Engineering, I'm a geologist. I've been working on the Co-op project for about two, two and-a-half years. We also have a graph which -- let me first say that Mr. Smith was surprised that we hadn't cited the work in our PHC. It is in fact cited in the PHC and in the revised evaluation reports. Our graph shows average annual spring flow at Big Bear Canyon Spring starting in 1980, and compares that with average regional precipitation as measured at five stations by the SCS and National Weather Service. This shows that here in yellow, is annual average precip.

Mr. Montgomery would have us believe that '82, '83 conditions were baseline, and in fact those were peaks as shown here, and many people who lived here at the time remember. Also, mining began in 1983, not 1985. And seasonal fluctuations, according to Mr. Leamaster, were evident during those years.

This clearly shows that there is a lag of approximately two years between peak precipitation, and peak stream flow or spring flow at Big Bear Canyon Springs. And that the decline in spring flow has pretty well matched the decline of precipitation. There's concern that the previous wet years have not brought the spring back up to their proper level of flow, or normal level of flow. We interpret that to be

because there is a lot of recharge that has been released during this drought of six years that's got to be built back up before normal spring levels or spring level flow up here is going to recur. That could be 1995, 1996. There may be more than the two year lag time here, maybe much more, because we are rebuilding the recharge that was released during the drought. This spring is doing exactly what one would expect it to do.

We have done some tritium dating, and that the results of the tritium dating show that there are 17.2 tritium units in Big Bear Spring water. Current Utah rainfall, rainwater levels are 10 to 12 tritium units. Rainfall prior to bomb tests from '63 to '69, if it fell in '52, we would have .95. Birch Spring is 1.12. Water from the north mains drippers (sic) is .9, and floor water north mains is 1.46.

That suggests that's all old water, pre-bomb water and may be very old indeed. The Big Bear Spring water, at 17.2, more closely matches the kind of tritium level you would expect in current precipitation. Therefore, water in the aquifers that are perched above the mine is old water. The water in the Big Bear Spring is young water. For that to be, because it's greatly influenced by local precipitation, produces from the

joints, recharge is probably very local, not distant, as it is for the aquifers we found below the mine that have older water.

I'll sit down now.

MR. CARTER: Let me ask a question about tritium. This is a new concept. Tritium only appears in atmospheric water since open air testing?

MR. GARR: There's always been natural occurring tritium, and during active bomb testing from '53 to '69 tritium concentrations were greater than 1,000 tritium units. It has a half-life of 12.26 years, and because they have stopped open air testing, the current rainwater levels are 10 to 20 tritium units in Utah at this elevation.

MR. CARTER: Okay.

MR. GARR: As I said, the issue, the tank seam has not really been addressed very much by water companies. As Mr. Kingston said, there are eight exploratory holes, seven of them had .1 gallon per minute flow, one in the north end of the mine had .5 gallon per minute of flow. Because there are no springs occurring between the Blind Canyon seam and the tank seam, which is 250 feet above the Blind Canyon, because there was so little flow through those exploratory holes, we really do not anticipate that

there will be much water encountered in the tank seam, and in fact, they will have to pump water up from the Blind Canyon just to help with dust suppression.

The only water that will be lost from this system, if minimal water is encountered in the tank seam as we believe, and if they pump water from the Blind Canyon up to the Tank, will be that which is taken out with the coal, which is normal. All the other water will be used for dust suppression, and reintroduced into the regime.

I think that's all the points that I have to make.

MR. CARTER: Your conclusion, based on the tritium dating, is that the water that was encountered in the Blind Canyon seam is old relic perched water.

MR. GARR: Yes. Our contention all along in all the documentation.

MR. CARTER: And not the same water that's coming out of Big Bear Spring?

MR. GARR: Right, they are different waters.

MR. CARTER: Is there any dilution effect, I mean --

MR. GARR: You certainly have a contribution of some older water with very low content to some newer water with higher content. Tritium dating is not an

exact science. All we can say is that tritium counts in these older waters are very low, and suggest very old water. In the Big Bear Spring, waters are in line with modern counts.

MR. CARTER: Okay. I think I understand.

MR. KINGSTON: John, there has been some discussion with Mr. Montgomery regarding a regional aquifer. What do your studies show with regard to that regional aquifer?

MR. GARR: The question about the regional aquifer, we feel, is not terribly important to this issue or the Blind Canyon seam or conditions at Co-op in general. It is to us a matter of semantics between Mr. Montgomery's definition of a regional aquifer and ours. We have done site specific studies, and put three on line monitoring wells and conducted aquifer testing on all the aquifers encountered. And a question of a regional aquifer, as far as a water table which cuts across all the lithologies across that graben, there is no such thing. There are three separate, distinct aquifers present below the mine.

Therefore, I suppose you could call the water table in the Panther a regional aquifer, but it really doesn't enter into our case.

MR. CARTER: Okay. Thank you. You check to see if

the microphone is on? I think it was not.

MR. REYNOLDS: My name is Charles Reynolds, I'm with Mangum Engineering Consultants, and I've been involved with the Co-op Mining Company for the past couple of years in taking care of their on-site compliance.

And maybe first I'd like to just address a couple of questions that have come up. First of all, in regard to the water rights, Co-op Mining Company operates under shares which have been purchased by Huntington Cleveland Irrigation Company, so the rights of the water used at the mine are owned by Huntington Cleveland.

And there was a concern regarding the tank seam as to whether Co-op Mining Company has adequate shares to cover the usage. The mining in the tank seam is meant to replace a lot of the tonnage currently mined in the Blind Canyon seam, because currently we've reached the permit boundaries in the Blind Canyon seam. And the -- there will not be a significant increase in the current usage for that. That usage is annually reported to Mr. Barton Wilson with Huntington Cleveland Irrigation, and that usage has been well within the shares that Co-op currently uses their water under. And any excess water encountered in the mine that is not used is discharged

back into the drainage system, which Huntington Cleveland Irrigation currently operates out of.

Now, perhaps I'll expand a little bit on some of the testimony that John Garr was talking about, within the Starpoint sandstone, as Bryce Montgomery referred to as regional aquifer. The testing in each of the wells showed that within the Starpoint sandstone, which Mr. Montgomery mentioned, we had three distinct tongues, the Storrs, Spring Canyon, and Panther. We found in each tongue of the sandstone a separate and distinct aquifer on a separate and distinct piezometric surface running through them, which would indicate perched aquifers versus one regional aquifer though the whole area.

At that level, and as John Garr mentioned, it may be that perhaps the level in the Panther Tongue, or even somewhere below that, you could find a regional aquifer or regional water table. But what we found in our drilling, was that in each of these formations there were three separate and distinct piezometric surfaces. A lot of this research, in fact all of this research has been done in trying to look at the possible effects of the existing mining operations. But the issue that we're looking at, which is amending the permit application to include the tank seam, again,

this mining is 250 feet above the existing mining, and is essentially dry, as Mr. Kingston mentioned.

One other comment I might add. As far as the drinking water, also as Carl mentioned, Co-op Mining Company currently has a drinking water setup, it is approved by the Drinking Water Division. The source comes out of the mine, and there is no treatment required on that source. We do not chlorinate; we do not treat it in any way. The water as it comes out meets all drinking water standards.

That is basically the extent of my comments. And if there's any other questions I can certainly address those.

MR. CARTER: All right. Thank you, Mr. Reynolds. I think what I'd like to do at this point is give the other people who indicated they would like to make a comment the opportunity to do so. And then I think I'll return to the Protestants to add whatever they would like to, and make a closing statement. Unless you have -- let's proceed that way, and then we'll allow the applicant to make their closing statements.

Mr., is it Stoyanoff, who's with North Emery Water Users Association, indicated an interest in speaking. Come on up.

MR. STOYANOFF: My name is Jack Stoyanoff, I'm the

manager for North Emery Water Users.

MR. CARTER: Thank you.

MR. STOYANOFF: We'd like to express a concern about our Birch spring. We developed that spring in 1983 at the cost of approximately $60,000. And at that time the reason they developed that, there was a good stream of water coming out of that canyon. It was estimated to be about 200 gallons a minute.

When they developed it they didn't get all the water. We were getting somewhere between 70 and 100 gallons a minute. And so it wasn't turned in the system right away. We went back and developed it again, or went back and looked at it again, dug down and looked for that water that was missing, and found that there wasn't any other water in there. So when we turned it in the system, there was probably about 70 gallons a minute, and it would peak up to about 100 gallons a minute, and drop down to about 55 gallons a minute.

We don't have records before 1989, but in 1989 there was a big flush that happened up there. In September of 1989 we were flowing about 80 gallons a minute, and all of a sudden the water went from 80 gallons a minute to 240 gallons a minute overnight. And the way we found out about it was our customers

were calling us saying the water was dirty. So we investigated, found that the collection box up there was full of sand and dirt. There was 240 gallons a minute coming out of the springs, plus an additional about 120 gallons a minute coming down this spring. That flow continued for about four months.

And then, as you can see on that graph I gave you, in January of '91, it just started dropping off, or of '90, dropped off and went back down to about 70 gallons a minute.

The two years that we kept records there, it peaked between 80 and 100 gallons a minute, and the last three years, or two and-a-half years, it's dropped down to -- well, it was about 30 gallons a minute, now it's down to 24 gallons a minute, and we don't see any peak in it at all. So we are concerned about the mining operations up there. We feel that probably a lot of the damage has already been done. Nobody's ever been able to explain that flush to us.

I also had a question. If I wasn't mistaken, the geologist from the Co-op said that the Bear Canyon spring was new water?

MR. CARTER: I think what he was attempting to point out is that tritium dating of the water suggested that the Bear Canyon Spring water is water that was

precipitation falling recently, in the last few years, rather than water that had been sitting in place for many years.

MR. STOYANOFF: Did that spring come up this last year, Darrel? Seems to me if it's new water, it should have. Our canyon springs is new water, and when you get runoff it peaks.

MR. CARTER: I think I understood the rest of his testimony to be that there's up to a two year delay in increase in precipitation, you don't -- I think what he was suggesting is that after precipitation increases, it may take a few years to see increased spring flows, that the water is not water that fell that very winter but that it's water that, at least relatively is new water as opposed to the water they -- testimony was they encountered in the mine, which again, their conclusion was that water was sitting in place for years, tens of years.

MR. STOYANOFF: Okay. Only other comment I have is when that flush happened, you ran some samples of the water and there was oil and grease found in the water and also chloroforms found in the water at that time.

MR. CARTER: That's very odd to have a big increase flow in the middle of the winter unless it was an

overload flow of essentially surface water.

MR. STOYANOFF: Two and-a-half years ago when we had that protest down in Castledale, we had also hired Bryce, and he said at that time he figured that what probably happened is they had been pumping water into old mines or something like that. It built up a reservoir and found a channel finally, and that channel was our spring; it came down through that channel.

MR. CARTER: Mr. Kingston, did you want to make a comment?

MR. KINGSTON: I do, your Honor. This is a little bit new area. We would want to address that probably through either our hydrologist or geologist. This was covered in previous hearings, but for your benefit I'd like to have one of my experts address that.

MR. CARTER: Let's do that now, unless -- do you have anything further? Keep this fresh in my mind.

MR. GARR: As far as sampling of Birch Spring is concerned, I witnessed sampling around there in the fall of 1991 by North Emery Water Users Association, and if that's any indication of how the well water or the spring water has been sampled in the past, there are readily explanations for any water quality concerns encountered there. I witnessed the worker open the spring collection box, drain it fully and refill the

box, rather than collect directly from the discharge pipe that goes into the spring box. The pipe was closed off, box was refilled, and he took -- he had been operating a backhoe just prior to this. Had jumped off the backhoe to come collect the sample. Stuck his ungloved hand into the water and submerged the bottles, which had preservatives in them, fully submerged the bottles in the standing water.

That's not any sampling protocol I'm aware of, and any oil and grease that might have been on his hands could have been introduced. As I say, preservative would have been either diluted or removed from the bottle. An ungloved hand could introduce fetal chloroform along with any number of substances that could get in that sample. The sample was taken by representatives of the laboratory where the analyses are done. They had no ice in the container, and we don't know what happened to the samples from that point on, but the protocol was not by any means adequate.

MR. CARTER: Any explanation with regard to the sudden increase in flow?

MR. GARR: Was discussed, that's been discussed several times now, in hydrogeologic evaluation reports, and there's -- I don't think anyone is certain what happened there. It's certainly not related to anything

at Co-op Mining, and we have discussed that time and again in the past.

MR. CARTER: Still a mystery. All right. Thank you.

MR. KINGSTON: This same issue, I should also point out, it may have some relevance, it may not. North Emery Water Users also attempted to blast that spring to increase the flow, and apparently that was done. It actually had a decrease or negative effect on the flow of that water and had nothing to do with Co-op Mining.

MR. CARTER: Mr. Stoyanoff?

MR. STOYANOFF: Yes, I'm the only operator that North Emery has and I've never sampled water that way. Every time I take a sample out of that water it comes out of the overflow pipe, and I sample it every other month now for chloroforms.

MR. REYNOLDS: Maybe to elaborate on that a little bit, the sample was being taken by CT & E for Co-op Mining Company, because we do monitor both Birch and Big Bear springs. At the time that sample was taken, it was being collected for Co-op Mining Company, and it was collected by Jack, a representative of CT & E and given the bottles to Jack.

MR. CARTER: Well, I don't know that we need to

sort this out necessarily. So, the next person, Varden Willson with Huntington Cleveland Irrigation Company indicated a desire to go on the record.

MR. WILLSON: My name is Varden Willson, secretary for Huntington Cleveland Irrigation Company. Huntington Cleveland company has the filings on the Huntington Creek for the first 392 feet of water. Huntington Cleveland company is a stockholder owned company. The mining operations can, and in the past has affected two culinary water systems, Castle Valley Special Service District, and North Emery Water Users. Castle Valley Special Service District supplies water to Huntington City, Cleveland and Elmo town with drinking water, and our stockholders in the Huntington Cleveland Irrigation Company, in order to have water rights for their water to deliver it.

Castle Valley Special Service District has Big Bear Spring in Bear Canyon near the Co-op mine portal, and they feel that the Co-op mine has affected their water flows from the spring in the past number of years from 50 to 60 gallons per minute. North Emery Water Users are stockholders in Huntington Cleveland Irrigation Company. North Emery Water Users have developed and used the water from what they call Gate Spring or also known as Birch Spring. According to

some North Emery Water Users' data, on October the 2nd, 1986, Birch Spring flowed 70 gallons per minute. On 10/19 of '89, Birch Spring flowed 150 gallons a minute. The water was dirty and could not be used in the culinary systems in the increased flow. At the present time the Birch Spring is flowing about 24 gallons a minute.

Huntington Cleveland asked several questions in their protest letter as follows: According to the mine plan, how much water will be intercepted in the mining operation? How much water will be used in the mining operation inside the mine? Where will the excess water intercepted go? What will be the quality of the water that is diverted from the mine operation? Does Co-op mine have enough water shares allocated to the mining operation to cover the water use that's used in the mine? They own water, but is there enough allocated to cover it? This year they had 45 shares allocated, that would deliver about 14.85 acre feet.

I've heard rumors or I don't know for sure, that there is about 200, 250 gallons per minute used in the mine. If it's 250 used in the mine, or 225, that's about a quarter a second, a half a second foot of water a day. And if you divide that by 30, cut it in half, you have 15 acre feet they use of water in one month

that's allocated out of their shares.

So we have some questions. Maybe my figures isn't right on the 200 gallons per minute that's used in the mine, but we would like to know. Huntington Cleveland would like to see the proposed water plan for dust control in the mine that is submitted to OHSA for each machine such as continuous miner, rough bolting machines, belt lines, hauling, a road to the mine, and stockpiles, the water they use there. Also the amount of water they use at their living quarters in Trail Canyon and in Bear Canyon.

We would like to see how much water is used. We would like to see this OHSA plan they submit to OHSA on how much water they use there for the dust suppression. These are the concerns of Huntington Cleveland. Co-op Mine does own shares in our company. They have enough shares to cover them, but it's used in other areas. We feel that the 45 shares are not enough allocation to take care of their usage, so Huntington Cleveland is very strong about this.

Mr. Reynolds made a statement that they submit us a report on how much water is used. For two years we did not get that report. We have written and asked, but for two years we did not get the report. So this is something else to clarify some of that. And this is

our statement from Huntington Cleveland. Thank you.

MR. CARTER: Okay, thank you very much. Again, before we get too far afield, I want to make sure everyone understands the Division doesn't have the ability to adjudicate disputes or concerns about excess water usage, or adequate rights to divert water, those kinds of things. The inquiry we need to make, and answer is, will the application to mine in the tank seam adversely effect the hydrology off the site in a way that would prevent us from issuing that permit. So, we appreciate your concerns. I would like to think those kinds of questions would be more easily answered than the question of what will happen when you mine in an area you're not currently mining in. So thank you.

That's it for everyone who indicated an interest in making a presentation. I think what I'd like to do now is allow Mr. Appel and Mr. Smith and Mr. Kingston to make closing arguments or statements on behalf of their clients.

MR. APPEL: Mr. Kingston has indicated we have been before the Division and the Board several times on this issue. The problem is it hasn't gone away. The frustration of my client and I think the irrigation companies and cities down there is that Co-op is unlike Plateau and Genwal and some of the other mining

companies. Co-op's approach is one of apparent denial they have anything to do with any problems occurring down there. The first line of defense, it didn't happen, that our measurements are error. The second one is, if it did, it had nothing to do with us, it's not Co-op's fault. And many of those sounds like excuses.

I suppose it's going to be up to the Division, or some department perhaps, cooperative departments within the Department of Natural Resources to figure out who's going to deal with this particular problem. I'll allow for the fact there are overlapping areas of authority, and perhaps even some cracks into which these sorts of issues may fall, but I think you have a department in place who might be able to seal those cracks.

With respect to the tank seam, I recognize that's the apparent narrow issue, but I think under your point of impetus that the regulations give you to do with cumulative impacts, Section 645-193.400, that is cumulative impacts to the hydrologic resource, you can get into this. You need to know what's happened before to create a baseline with respect to what's happening in the future cumulative impacts, and you need to look at those.

With respect to the tank seam, they may be dry as they say. Of course dry, when they say dry, they mean

there is only some water. Our concern is the contamination that's going to occur. It's at the top. There are joints and fractures. We believe that through those joints and fractures, there will be communication potentially of contaminants in to the source. If that hasn't been dealt with, you need to answer that particular question.

They have indicated they are going to take, as I understand it, take the coal out through a tunnel, and take it out the Blind Canyon mine portal. That's fine. That means they are still using the Blind Canyon mine as a source. There's going to be contamination down there and that is much lower. It could be a new use there. Certainly the water is tributary through this. While geology, you know, is not necessarily an exact science, you can fairly well guess if you have the correct drill holes and you investigate carefully, there may be a need to do that, but the water that goes -- lands on the surface and communicating through the stratigraph is tributary.

They are going to pump water up from the bottom, where will that water go? It may be dry at that level. It's not going to be dry when they are pumping water up for mining purposes. What's going to occur with respect to that? It's higher in the sequence,

going to fall down through the faults, fractures and joints. That's an unanswered question at this point.

I've mentioned I think you need to deal with cumulative impacts. To focus on the tank seam and ignore the remainder of the Co-op operation, I think, is artificially narrow. I think you need to look at the effect of all of this.

Certainly, Protestants you have heard are going to have to force some department to look at this issue, because we believe we have a problem with our sources. We also believe that we have demonstrated impact based upon what you have seen today of the prior mining. The water taken out of the mine has increased since 1991, from a small amount to 500 gallons per minute. They're intercepting something. They say it's perched water, and we say that it likely is not. You have legitimate experts whose conclusions are diametrically opposed, seems to me, and that's something the Division has to resolve. And those conclusions relate to the nature of the aquifer apparently, the tributary nature of water, what water is which.

I'd suggest that despite the testing that occurred, this probably isn't colored water, and there is a way to answer this particular question. We have indicated some problems with the studies. Co-op has

suggested that they have drilled many holes, they have drilled a number of holes. Our problem with that, is that we believe the studies are incomplete, not followed to their logical conclusion. They realize they're in the path of tributary water which comes out in these various springs, and likely enters Huntington Creek in that side canyon, but they are not asking themselves the hard question: What happens? They just know, they take it out, and it goes back into the creek.

I think we need to review that.

They have indicated that they are using water at the site, approximately 200 gallons per minute in the mine. I don't know what's happening to that water. The concern of mine use water creates concerns for me with respect to contamination. There's also an issue of who owns that particular water. They have some shares in Huntington Creek Irrigation or Huntington Cleveland Irrigation Company. You have heard the concern by the others, that they are using too much water. They filed a change application, based upon those shares, but as you know, that priority is junior to that of the company. If they are interfering with these other supplies, then it should cease or they need to find a replacement source.

Another issue which comes up within Ted Stewart's purview is not necessarily your own or the state engineer's, that they have filed any sort a change application to pump this water up to the tank seam. Without that, this is not technically complete. I don't know the answer to that question. They may have done that. They suggested that the quality of water that they are intercepting is better. What this makes me wonder is why the quality downstream is worse, and I think that's a question that needs to be answered.

Obviously from -- I mentioned before, we're not sure which department has the authority or if the Division has the authority over this. The department, I believe, does. There may need to be communication with the Health Department, Safe Drinking Water Committee about this, but I'm sure that can occur. You need to decide here whether or not the tank seam is-- should proceed. What we would like to do, and we ask you for leave to explore some of these various issues, you have a decision period, and we'd like to aid you in that.

Some new issues have arisen that we didn't know at the time we protested, and I think we can shed some light on this, and you need to have the benefit of both sides to help answer these questions. We would

supplement, with respect to water quality, the connection between the tank seam and the Blind Canyon seam to our springs, suggest what additional data, perhaps drilling, needs be accomplished to fully answer these questions, and we can give you some insight on the lack of completeness we think is exhibited by their documents that they filed.

Thank you.

MR. CARTER: Thank you. I'm going to need to take your request for additional time to supplement the records under advisement and consult with our assistants, AG's, to determine whether or not we're able to do that.

MR. APPEL: We have done it before.

MR. KINGSTON: With stipulation of all parties.

MR. CARTER: Mr. Smith.

MR. SMITH: Thank you. Huntington Cleveland Irrigation Company would like to join in the request for supplementation, and I guess we'll be a little bit surprised if that's opposed. And the reason is because I think we have -- the Division has a very important decision before it. It's a decision of almost first impression. The consequences are high because of the importance to both parties. It's certainly important to Co-op Mine. They continue their mining operations,

and everyone understands that. But it's equally important to the water purveyors that we continue to have good quantity and also good quality water to provide for those critical uses, including those of Co-op mines, who are shareholders in Huntington Cleveland.

Because of the importance of this issue, I think all parties would be served by the best information to the Division, and that as much as can be known about this aquifer and about the consequences and impacts of mining be known, so that the ultimate decision is able to -- the Division is able to balance these interests. And if there are impacts, to come up with a proper mitigation requirement to mitigate those impacts. If they turn out there is no impacts, then we can rest assured we are not going to lose our critical water supply that services all the people, including those that work for the Co-op mine.

There have been some new questions raised in this issue today. We fully understand that maybe some of those are technically outside the Division's responsibility, but as Mr. Appel pointed out, they're within the department's responsibility. But as I pointed out, the regulations -- Mr. Appel also pointed out regulations -- there are important hydrological

questions that are before this body. Also, whether there are adverse impacts before this body, or before you, Mr. Carter, I guess. You're up there alone, before you and your staff. And I think it behooves everyone to resolve those through the best information possible at this level, rather than having to go on to other forums and other places. And we appreciate the opportunity to air our protest today, and thank the Division for that. Thank you.

MR. CARTER: Thank you. Mr. Kingston? This has taken a formal aspect, hasn't it?

MR. KINGSTON: I'll try to be less formal, then.

MR. APPEL: Loosen your tie.

MR. KINGSTON: We haven't agreed or stipulated to any continuance or extended time for submitting additional information, your Honor, we're running into a severe time restraint. If the coal in the current mining is running out, they have to move to a new area or start pulling pillars, and that's going to prevent them from later going back in further north which is also an application pending before the Division. There hasn't been any new information. In fact, 99 percent of the issues raised today were raised two and-a-half years ago. The Protestants have had, I think it's a 30 day period of time, to protest. They have an

additional time here to prepare for the hearing. They're at an advantage over us, because we don't know what the protest is, other than what they state in the written protest.

All of the issues raised in the written protest have been answered; the information provided to the Division, they know what the issues are.

They -- I again want to state, the issue here is very, very narrow, and that is what impact, if any, will mining the tank seam have on the hydrology in the area. And there simply hasn't been any evidence at all that there will be any impact. It's been to the contrary. There's very little water there.

And I was surprised by Mr. Appel in his statement regarding contamination of water, that's going to happen to the water pumped up to the tank. See, all of that water will be used in the mining process, used for dust control. There will be no discharge from the tank seam. That water, what is used, will be taken out with the coal as dust control, and it won't get into any stream or spring that feeds the tributary to the water sources of the Protestants.

The information regarding the amount of water generated or produced or used or discharged has been very erroneous. Co-op Mining does monitor both the

amount of water encountered, and also the water discharged, for amount and for quality. Currently, it's about 200 gallons per minute which is encountered or produced through our mine process. They discharge about 160 gallons per minute. I don't think it's necessary here to go into the objections of Mr. Willson. We are a shareholder. He was the one who helped us determine how many water shares were needed for that operation, and our using shows we have three times the actual shares necessary to cover the water we're using. So I don't think that's an issue. And it certainly is not an issue the Division needs to decide.

But, you know, the evidence has been there, the Protestants have had their chance to present evidence, they haven't produced any at all regarding the tank seam. Our evidence, that has been conclusive. There will be very little if any water encountered. What is encountered will be used in the mine process, won't be discharged. There simply will be no impact whatsoever on any hydrologic sources through the mining of the tank seam.

The issues regarding the other seam, the Blind Canyon seam, aren't relevant. We have tried to answer that to alleviate any fears or suspicions anyone has,

and again I want to restate, it's not the policy, never had been, never will be the policy of Co-op Mining Company to not negotiate in good faith or try to work something out if there is a problem.

We're water users, through our homes as well as in the mine process. Whatever affects the water there is our concern as well as the concern of the other Protestants here. We question the good faith of the Protestants in the manner they have approached this in not first contacting us. We simply can't try and contact each person we think may be a protestant. If they have a concern they should contact us. They haven't done that, other than through writing.

I might state for the record that years and years ago we did have a number of discussions with Mr. Leamaster and worked out an agreement, but the last few years they haven't wanted to or aren't willing to. It hasn't been our policy not to negotiate. But it has to be done in good faith and has to be based upon some kind of credible evidence. There is a problem that has to be addressed and there isn't that here, your Honor, today, or Mr. Carter, excuse me. Thank you.

MR. CARTER: Thank you. This is an informal proceeding, and I, in terms of whether or not I'm able to leave the record open to supplementation, I frankly

don't know. There's a -- we have initiated a comment period, and apparently it's likely the comment period has closed, only been held open for the purposes of receiving what information comes in during this hearing. But I don't want to make a call on that right this second. I want to consult with my attorneys first. But I understand your -- we need to move ahead with our decision making, and cannot keep this issue open indefinitely. I will have to go back to the office and consult with them, but I'll come to the conclusion on that quickly and offer whatever relief either of the parties thinks they might need to pursue based on what I decide.

I think that will conclude the informal hearing. I think we have got some documents that have not yet been marked, and I'm assuming we can incorporate those as part of the record. Those are -- the one is on flow record on Birch Spring, which I'm not sure is material to this application, because we -- in the absence of objection, we'll, I think, include it since it was tendered.

And the other, then, is the spring flow versus regional precipitation information Mr. Garr presented. So we'll incorporate those as part of the record.

MR. APPEL: As well as our information?

MR. CARTER: Yes, sorry. I neglected to mention one, two, three, four, five charts introduced by one of the Protestants. All right. Thank you all.

(Whereupon the hearing was concluded.)

STATE OF UTAH)

COUNTY OF SALT LAKE)

I, Linda J. Smurthwaite, Certified Shorthand Reporter, Registered Professional Reporter, and notary public within and for the county of Salt Lake, State of Utah do hereby certify:

That the foregoing proceedings were taken before me at the time and place set forth herein, and was taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision.

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

In Witness Whereof, I have subscribed my name this 14th day of September, 1993.

LINDA J. SMURTHWAITE
CERTIFIED SHORTHAND REPORTER

LINDA J. SMURTHWAITE
Notary Public
STATE OF UTAH
My Comm. Exp. MAR 01,1996
5965 MONTAGUE MURRAY UT 84123

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APPEL & MATTSSON
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Suite 1110
Salt Lake City, Utah 84111
Telephone: (801) 532-1252

Attorneys for Castle Valley
Special Service District

IN AND BEFORE THE UTAH STATE DIVISION

OF OIL, GAS, AND MINING

In the Matter of the Tank Seam Application of Co-Op Mining Company, Bear Canyon Mine, Emery County, Utah, ACT/015/025	Objection of Castle Valley Special Service District to Co-Op's Application to Extend Mining into Tank Seam

Castle Valley Special Service District ("Castle Valley"), by and through its counsel, Appel & Mattsson, hereby submits this Objection to Co-Op's Application to Extend Mining into the Tank Seam, located above the existing seam within the existing permit area of the Bear Canyon Mine (ACT/015/025).

The grounds for the Objection are as follows:

1. Castle Valley is a local government entity that provides culinary water to Huntington, Cleveland and Elmo, Utah. Castle Valley provides water for 1,050 connections (which includes at least 2650 persons) from springs located in the proximity of Co-Op's mining operations, including Big Bear Canyon Springs.

2. A major portion of Huntington City's culinary water supply

is diverted from Big Bear Canyon Springs, which is in the area of Co-Op's mining operations.

3. Castle Valley is concerned that Co-Op has not taken adequate measures to protect Castle Valley's water sources either in its present mining areas or in its proposed mining area within the Tank Seam. Castle Valley is particularly concerned about the continuing integrity of its water sources given Co-Op's past problems in this regard. The following are illustrations of Castle Valley's concerns:

a. Co-Op's past mining operations have contaminated Big Bear Canyon Springs and the aquifers feeding the springs.

b. Co-Op's past mining operations have adversely and permanently impacted the level of flow of Big Bear Canyon Springs. The flows have significantly diminished as a result of Co-Op's mining operations and have not recovered and/or recharged even after the most recent "wet" water year.

c. Over the years, Co-Op has been cited by the DOGM for failing to adequately protect the hydrologic resources in the proximity of its mining operations.

4. Castle Valley is concerned that Co-Op's proposed expansion of its mining operations into the Tank Seam will have an adverse impact upon Big Bear Canyon Springs and the aquifers feeding the springs.

5. Castle Valley believes Co-Op's proposed expansion may harm

the vested water rights of Castle Valley and water users whose points of diversion are located below Co-Op's proposed operations. These water sources including Big Bear Canyon Springs, represent critical and irreplaceable sources of water for several adjacent towns and communities.

WHEREFORE, Castle Valley, requests that Co-Op's Application to expand into the Tank Seam be rejected and that it be entitled to participate in a hearing on the matter.

Castle Valley further requests that it be kept apprised of all current or proposed Co-Op mining operations that may impact the quality and/or quantity of its water sources.

DATED this 12th day of August, 1993.

Michele Mattsson

Jeffrey W. Appel
Michele Mattsson
Attorneys for Castle Valley

AFFIDAVIT OF PUBLICATION

STATE OF UTAH)
ss.
County of Emery,)

I, Kevin Ashby, on oath, say that I am the Publisher of the Emery County Progress, a weekly newspaper of general circulation, published at Castle Dale, State and County aforesaid, and that a certain notice, a true copy of which is hereto attached, was published in the full issue of such newspaper for One (1) consecutive issues, and that the first publication was on the

24th day of August, 19 93

and that the last publication of such notice was in the issue of such newspaper dated the

.....day of....., 19.....

Kevin Ashby

Subscribed and sworn to before me this

24th day of August, 19 93

Linda Slaugh
Notary Public

My Commission expires January 10, 1995

Residing at Price, Utah

Publication fee, $ 30.40

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DIVISION OF
OIL, GAS & MINING

NOTICE OF INFORMAL HEARING
CAUSE NO ACT/015/025-93B

BEFORE THE DIVISION OF OIL, GAS AND MINING DEPARTMENT OF NATURAL RESOURCES STATE OF UTAH.

IN THE MATTER OF THE TANK SEAM APPLICATION OF CO-OP MINING COMPANY, BEAR CANYON MINE, EMERY COUNTY, UTAH.

THE STATE OF UTAH TO ALL PERSONS INTERESTED IN THE ABOVE ENTITLED MATTER.

Notice is hereby given that the Division of Oil, Gas and Mining will conduct an informal hearing on Thursday, September 9, 1993, at 9:00 a.m., at the DNR Auditorium, DNR Building, First Floor, 1636 West North Temple, Salt Lake City, Utah, 84116-3193.

The informal hearing will be conducted in accordance with Utah Code Ann § 40-10-13 (1953, as amended) and Utah Admin. R. 645-300-122 and R. 645-300-123.

The permittee, Co-Op Mining Company, is currently operating the Bear Canyon Mine, an underground coal mine in Emery County, Utah. Permittee has applied to extend mining into the Tank seam, located above the existing seam within the existing permit area of the Bear Canyon Mine. Objections including, but not limited to, issues of water rights and impact of mining on the quality and quantity of the springs located in the proximity of Co-Op's mining operations, including Big Bear Canyon Springs and the aquifers feeding the springs, related to mining of the Tank seam, have been raised during the public comment period.

Persons interested in this matter may participate pursuant to Utah Admin. R. 645-300-123. The application, subsequent public comments, and request for informal hearing may be inspected in the office of the undersigned, 3 Triad Center, Suite 350, 355 West North Temple, Salt Lake City, Utah, (801) 538-5340.

DATED this 19th day of August, 1993.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING
-s-James W. Carter
Director

Published in the Emery County Progress August 24, 1993.

COPY

ACT 015/025

AFFIDAVIT OF PUBLICATION

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AUG 30 1993

DIVISION OF
OIL, GAS & MINING

STATE OF UTAH)
ss.
County of Carbon,)

I, Kevin Ashby, on oath, say that I am the Publisher of the Sun Advocate, a twice-weekly newspaper of general circulation, published at Price, State and County aforesaid, and that a certain notice, a true copy of which is hereto attached, was published in the full issue of such newspaper for One (1) consecutive issues, and that the first publication was on the

24th day of August, 1993

and that the last publication of such notice was in the issue of such newspaper dated the

.....day of....., 19.....

Kevin Ashby

Subscribed and sworn to before me this

24th day of August, 1993.

Linda Thayn
Notary Public

My Commission expires January 10, 1995

Residing at Price, Utah

Publication fee, $30.40

NOTARY PUBLIC
LINDA THAYN
611 NORTH 10TH EAST
PRICE, UT 84501
My Commission Expires Jan. 10, 1995
State of Utah

NOTICE OF INFORMAL HEARING
CAUSE NO ACT/015/025-93B

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DATED this 19th day of August, 1993.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING
-s-James W. Carter
Director

Published in the Sun Advocate August 24, 1993.

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PUBLISHED ON AUG 24 1993

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DATE 08/24/93

NOTICE OF AGENCY ACTION CAUSE NO. ACT/015/025-038 BEFORE THE DIVISION OF OIL, GAS AND MINING DEPARTMENT OF NATURAL RESOURCES, STATE OF UTAH

IN THE MATTER OF THE TANK SEAM APPLICATION OF CO-OP MINING COMPANY, BEAR CANYON MINE, EMERY COUNTY, UTAH.

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DATED this 19th day of August 1993

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING
/s/ James W. Carter,
Director
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BEFORE THE DIVISION OF OIL, GAS AND MINING
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STATE OF UTAH

--oo0oo--

IN THE MATTER OF THE TANK SEAM APPLICATION OF CO-OP MINING COMPANY, BEAR CANYON MINE, EMERY COUNTY, UTAH	NOTICE OF INFORMAL HEARING CAUSE NO. ACT/015/025-93B

--oo0oo--

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DATED this 19th day of August, 1993.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING

James W. Carter
Director

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing Notice of Informal Hearing, Cause No. ACT/015/025-93B, to be mailed by Certified mail, postage prepaid, on the 20 day of August, 1993, to the following:

DARREL V LEAMASTER PE
DISTRICT MANAGER
CASTLE VALLEY SPECIAL SERVICE DISTRICT
PO BOX 877
CASTLE DALE UT 84513

MENCO COPINGA PRESIDENT
NORTH EMERY WATER USERS ASSOCIATION
BOX 418
ELMO UT 84521

SHERREL WARD
BOARD OF DIRECTORS
HUNTINGTON-CLEVELAND IRRIGATION COMPANY
BOX 395
CLEVELAND UT 84518

VARDEN WILLSON SECRETARY
HUNTINGTON-CLEVELAND IRRIGATION COMPANY
55 NORTH MAIN
HUNTINGTON UT 84528

BRYCE MONTGOMERY
3512 SOUTH 100 EAST
BOUNTIFUL UT 84010

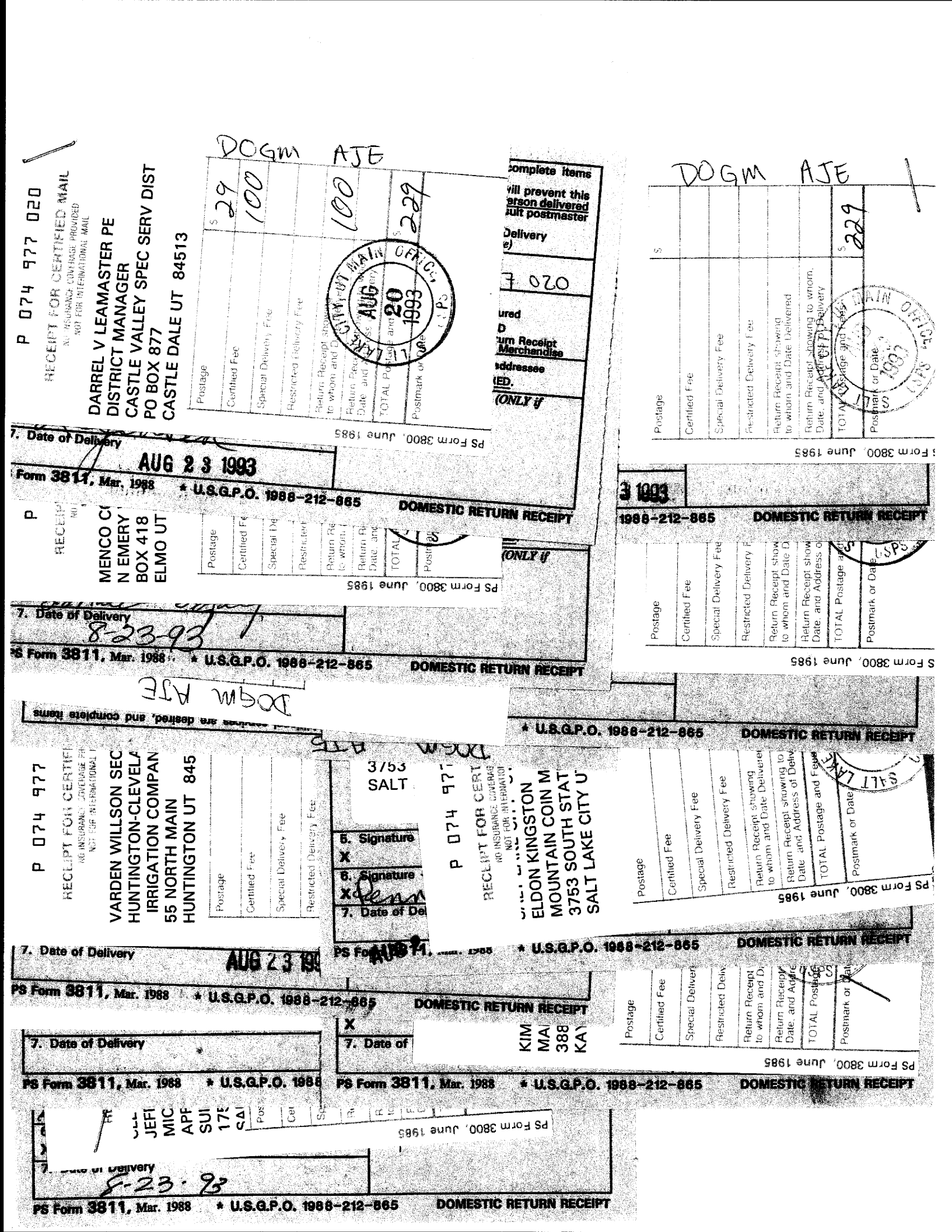
JEFFREY W APPEL
MICHELE MATTSSON
APPEL & MATTSSON
SUITE 1110
175 SOUTH MAIN STREET
SALT LAKE CITY UT 84111

WENDELL OWEN
CO-OP MINING COMPANY
PO BOX 1245
HUNTINGTON UT 84528

JOSEPH O KINGSTON PRESIDENT
COP COAL DEVELOPMENT COMPANY INC
53 WEST ANGELO AVENUE
SALT LAKE CITY UT 84115

ELDON KINGSTON
MOUNTAIN COIN MACHINE DIST
3753 SOUTH STATE STREET
SALT LAKE CITY UT 84115

KIMLY C MANGUM PE
MANGUM ENGINEERING CONSULTANTS
388 EAST BOYNTON ROAD
KAYSVILLE UT 84037



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PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

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DAVE LAURISKI CHAIRMAN
2115 EAST HUNTER'S GLEN
LAYTON UT 84041

MARK PAGE AREA ENGINEER
DIVISION OF WATER RIGHTS
PO BOX 718
PRICE UT 84501

ROBERT H HAGEN DIRECTOR
OFFICE OF SURFACE MINING
RECLAMATION & ENFORCEMENT
SUITE 1200
505 MARQUETTE N W
ALBUQUERQUE NM 87102

ROGER ZORTMAN DISTRICT MGR
BUREAU OF LAND MANAGEMENT
82 EAST DOGWOOD
PO BOX 970
MOAB UT 84532

GARY TORRES MINING ENGINEER
BUREAU OF LAND MANAGEMENT
82 EAST DOGWOOD
PO BOX 970
MOAB UT 84532

MARK BAILEY AREA MANAGER
BUREAU OF LAND MANAGEMENT
SAN RAFAEL RESOURCE AREA
900 NORTH 700 EAST
PRICE UT 84501

GEORGE MORRIS FOREST SUPERVSR
US FOREST SERVICE
MANTI-LASAL NATIONAL FOREST
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PRICE UT 84501

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DIVISION OF WATER POLLUTION CONTROL
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DIVISION OF WILDLIFE RESOURCES
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LARRY ANDERSON DIRECTOR
DIVISION OF WATER RESOURCES
DEPT OF NATURAL RESOURCES
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Publication of Notice:

NEWSPAPER AGENCY CORP
SUN ADVOCATE
EMERY COUNTY PROGRESS

Posted at:
DOGM PRICE FIELD OFFICE
DOGM SALT LAKE CITY OFFICE

Janean Burns

HUNTINGTON-CLEVELAND IRRIGATION COMPANY
55 North Main
Huntington, Utah 84528
Telephone (801) 687-2505

July 14, 1993

Mr. James W. Carter, Director
Division of Oil, Gas and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

Dear Mr. Carter,

Huntington Cleveland Irrigation Company addresses this permit, ACT/015/025, Folder #3, Emery County, Utah, with concerns and want some answers, which without, this letter services as a protest to allow this permit to happen.

According to Mine Plan, how much water will be intercepted? How much water will be used in this mining operation? Where will the excess water intercepted go? What will the quality of the water be that is diverted, from the mine operation? Does Co-op Mine have enough water shares allocated to cover this mining operation?

If these questions are not answered to Huntington Cleveland Irrigation Companys satisfaction, this letter serves as an official protest to this applicatication for permit, ACT/015/025, Folder #3, Emery County, Utah.

Sincerely,

Varden Willson

Varden Willson, Secretary
Huntington Cleveland Irrigation Co.
Huntington, Utah

VW

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

August 18, 1993

Sun Advocate
Emery County Progress
P. O. Box 870
76 West Main
Price, Utah 84501

Gentlemen:

Re: Notice of Informal Conference (Public Hearing)

Attached is a Notice of Informal Conference from the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah.

It is requested that this notice be published ONCE ONLY as soon as possible, but no later than the 24th day of August, 1993, in both the Sun Advocate and Emery County Progress. In the event that said notice cannot be published by this date, please notify me immediately by calling 538-5340.

Upon completion of this request, please send proof of publication and statement of cost to the Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203.

Sincerely,

Victoria A. Bailey
Executive Secretary

vb
Attachment

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
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FAX COVER SHEET

Date: 8-19-93

FAX #: 1-637-2716

From: Vicki Bailey

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FAX

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
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FAX

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55 North Main
Huntington, Utah 84528
Telephone (801) 687-2505

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Division of Oil, Gas and Mining
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Salt Lake City, Utah 84180-1203

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State of Utah

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DIVISION OF OIL, GAS AND MINING

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
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August 18, 1993

Newspaper Agency Corporation
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P. O. Box 45838
Salt Lake City, Utah 84145

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Attachment

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James W. Carter
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DIVISION OF OIL, GAS AND MINING

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801-538-5340
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