

Keith A. Kelly (4748)
 Steven W. Call (5260)
 Peggy M. Hunt (6060)
 Steven C. Strong (6340)
 RAY QUINNEY & NEBEKER P.C.
 36 South State Street, Suite 1400
 P.O. Box 45385
 Salt Lake City, UT 84145-0385
 Telephone: 801-532-1500
 Facsimile: 801-532-7543
 Attorneys for Aquila, Inc.

UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

In re:

C. W. MINING COMPANY, a Utah
 corporation,

Debtor and Debtor in Possession.

Bankruptcy Case No. 08-20105

(Chapter 11)

Hon. Judith A. Boulden

[Filed Electronically]

**EX PARTE MOTION OF AQUILA, INC. FOR ORDER TO SHOW CAUSE
 WHY HIAWATHA COAL COMPANY, INC. AND ELLIOT FINLEY
 SHOULD NOT BE HELD IN CIVIL CONTEMPT**

Pursuant to 11 U.S.C. § 105 and Fed. R. Bankr. P. 9014 & 9020, Aquila, Inc. ("Aquila") moves this Court to enter an order to show cause (the "OSC") requiring Hiawatha Coal Company, Inc. ("Hiawatha") and Elliot Finley ("Finley") to appear and show cause as to:

(a) why they are not violating 11 U.S.C. § 362(a)(3); (b) why they are not acting contrary to this Court's Order Denying in Part and Granting in Part Motion for Order Preserving and Protecting Assets of the Bankruptcy Estate (Docket No. 139); and (c) why civil contempt damages should

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not be imposed against them to compel them to comply with the automatic stay and/or to remedy their failure to time comply with the automatic stay. In addition, in the event that either Hiawatha or Finley fails to comply with the OSC, the Court should give Hiawatha and Finley notice that it may certify the facts in this case to the District Court to hold Hiawatha and/or Finley in criminal contempt of Court. *See* DUtCivR 83-7-5.

This Motion is supported by an accompanying Memorandum of Law.

Aquila respectfully requests that the Court enter the OSC as soon as possible, and schedule a hearing on the first appropriate date available on the Court's calendar.

As set forth in the attached Certificate of Service and the Memorandum of Law, these papers, as well as the proposed OSC, will be served on Hiawatha and Finley by first class mail (postage prepaid) and on Hiawatha by facsimile. As set forth in the proposed OSC, if the OSC is entered, Aquila will arrange to have the OSC personally served on Hiawatha and Finley.

Dated this 30th day of October, 2008.

RAY QUINNEY & NEBEKER P.C.

/s/ Peggy M. Hunt
Keith A. Kelly (4748)
Steven W. Call (5260)
Peggy M. Hunt (6060)
Steven C. Strong (6340)
Attorneys for Aquila, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing ***EX PARTE* MOTION OF AQUILA, INC. FOR ORDER TO SHOW CAUSE WHY HIAWATHA COAL COMPANY, INC. AND ELLIOT FINLEY SHOULD NOT BE HELD IN CIVIL CONTEMPT** was electronically filed on October 30, 2008 and therefore served on the following parties through the Court's CM/ECF system:

- David E. Leta dleta@swlaw.com, wsmart@swlaw.com,;kgoley@swlaw.com
- Joel T. Marker joel@mbt-law.com
- John T. Morgan tr john.t.morgan@usdoj.gov, james.gee@usdoj.gov
- Oliver K. Myers myersok@msn.com
- Paul James Toscano ptoscano@expresslaw.com, eallred@expresslaw.com;bgonzales@expresslaw.com;ptpccf@gmail.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov
- Russell S. Walker rwalker@wklawpc.com, ckirk@wklawpc.com
- David R. Williams dwilliams@wklawpc.com, rbeattie@wklawpc.com

I further certify that on October 30, 2008 a copy of the foregoing ***EX PARTE* MOTION** was served via first-class mail, postage prepaid, upon the following parties:

Conrad H. Johansen
Olsen Skoubye & Nielson
999 East Murray-Holladay Road, Suite 200
Salt Lake City, UT 84117

John Deere Construction & Forestry Co.
P.O. Box 6600
Johnston, IA 50131-6600

Mark Hansen
Attorney for Standard Industries and C.O.P.
Coal Development Co.
431 North 1300 West
Salt Lake City, UT 84116

Internal Revenue Service
Centralized Insolvency Operations
P.O. Box 21126
Philadelphia, PA 19114-0326

Carl E. Kingston
Registered Agent, Hiawatha Coal Company,
Inc. and Attorney for C.O.P. Coal
Development Company
3212 South State Street
Salt Lake City, UT 84115

Elliot Finley, Resident Agent
Hiawatha Coal Company, Inc.
5550 West Bear Canyon Road
Huntington, UT 84528

Hiawatha Coal Company
P.O. Box 1240
Huntington, UT 84528

Hiawatha Coal Company
P.O. Box 1245
Huntington, UT 84528

Elliot Finley
Hiawatha Coal Company, Inc.
5550 West Bear Canyon Road
Huntington, UT 84528

Elliot Finley
Hiawatha Coal Company, Inc.
3212 South State Street
Salt Lake City, UT 84115

Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
Salt Lake City, UT 84116

Utah Division of Oil, Gas & Mining
319 N. Carbonville RD. #C
Price, UT 84501-2351

U.S. Environmental Protection Agency
1595 Wynkoop St.
Denver, CO 80202-1129

State of Utah Division of Water Quality
288 North 1460 West
P.O. Box 144870
Salt Lake City, UT 84114-4870

Utah Division of Water Rights
1636 West North Temple
Salt Lake City, UT 84116

Utah Division of Water Rights
Southeastern Regional Office
319 Carbonville Road
P.O. Box 718
Price, UT 84501

Utah Labor Commission
160 East 300 South, 3rd Floor
Salt Lake City, UT 84111

Utah Labor Commission
Office of Coal Mine Safety
940 South Carbon Ave.
Price, UT 84501

U.S. Dept. of Labor, Mine Safety & Health
P.O. Box 25367, DFC
Denver, CO 80225-0367

Utah Division of Air Quality
150 North 1950 West
Salt Lake City, UT 84116

Emery County Zoning Commission
P.O. Box 417
Castle Dale, UT 84513

I further certify that on October 30, 2008 a copy of the foregoing *EX PARTE MOTION* was served via email upon the following parties:

John T. Morgan
John.t.morgan@usdoj.gov

Steve Alder
Assistant Utah Attorney General
stevealder@utah.gov

I further certify that on October 30, 2008 a copy of the foregoing *EX PARTE MOTION*
was served via facsimile upon the following parties:

Hiawatha Coal Company
435-687-2084

/s/ Carrie A. Watters

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