

7/015/025 Incoming

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

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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]

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**ORDER TO SHOW CAUSE ISSUED TO  
 HIAWATHA COAL COMPANY, INC. AND ELLIOT FINLEY**

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The matter before the Court is the *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 (the "OSC Motion"). The Court has reviewed the OSC Motion and supporting Memorandum, has considered the applicable law, and based thereon and for good cause shown,

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DIV. OF OIL, GAS & MINES

**IT IS HEREBY ORDERED** that:

(1) The OSC Motion is GRANTED.

(2) The Court hereby enters this Order to Show Cause ("OSC"), requiring Hiawatha Coal Company, Inc. ("Hiawatha") and Elliot Finley ("Finley") to personally appear before the Honorable Judith A. Boulden, at the United States Bankruptcy Court for the District of Utah, the Frank E. Moss Courthouse, 350 South Main Street, Salt Lake City, Utah in Courtroom 341 on \_\_\_\_\_ at the hour of \_\_\_\_\_ to show cause as to:

(a) why Hiawatha and Finley are not violating 11 U.S.C. § 362(a)(3);

(b) why Hiawatha and Finley 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 not be imposed against Hiawatha and Finley to compel them to comply with the automatic stay and/or to remedy their failure to time comply with the automatic stay.

(3) Once entered by the Court, Aquila, Inc. ("Aquila") shall serve this OSC on Hiawatha and Finley by personal service, and file an Affidavit of Service with the Court.

(4) Hiawatha and Finley shall each file a response to this OSC within \_\_\_ days of personal service.

(5) Aquila, or any other party in interest, may file a reply to any response filed by Hiawatha and/or Finley by filing such reply within \_\_\_ days of the filing of the response required under paragraph (4) above.

(6) Upon personal service of this OSC, Hiawatha's failure to comply within any provision herein will be deemed to be contempt of Court and grounds for the Court to certify this matter to the District Court for criminal contempt proceedings pursuant to United States District Court Local Rule 83-7.6.

(7) Upon personal service of this OSC, Finley's failure to comply within any provision herein will be deemed to be contempt of Court and grounds for the Court to certify this matter to the District Court for criminal contempt proceedings pursuant to United States District Court Local Rule 83-7.6.

-----END OF ORDER-----

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **ORDER TO SHOW CAUSE ISSUED TO HIAWATHA COAL COMPANY, INC. AND ELLIOT FINLEY** 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](mailto:dleta@swlaw.com), [wsmart@swlaw.com](mailto:wsmart@swlaw.com), [kgoley@swlaw.com](mailto:kgoley@swlaw.com)
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- David R. Williams    [dwilliams@wklawpc.com](mailto:dwilliams@wklawpc.com), [rbeattie@wklawpc.com](mailto:rbeattie@wklawpc.com)

I further certify that on October 30, 2008 a copy of the foregoing **ORDER TO SHOW CAUSE ISSUED TO HIAWATHA COAL COMPANY, INC. AND ELLIOT FINLEY** 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  
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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, 3<sup>rd</sup> 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

Utah Division of Air Quality

P.O. Box 25367, DFC  
Denver, CO 80225-0367

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 **ORDER TO SHOW CAUSE ISSUED TO HIAWATHA COAL COMPANY, INC. AND ELLIOT FINLEY** was served via email upon the following parties:

John T. Morgan  
[John.t.morgan@usdoj.gov](mailto:John.t.morgan@usdoj.gov)

Steve Alder  
Assistant Utah Attorney General  
[stevealder@utah.gov](mailto:stevealder@utah.gov)

I further certify that on October 30, 2008 a copy of the foregoing **ORDER TO SHOW CAUSE ISSUED TO HIAWATHA COAL COMPANY, INC. AND ELLIOT FINLEY** was served via facsimile upon the following parties:

Hiawatha Coal Company  
435-687-2084

/s/ Carrie A. Watters