

JS

C/015/0025 Incoming

#3619  
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SOUND THINKING. SOUND SOLUTIONS.

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THOMAS D. BOYLE €	G. TROY PARKINSON ‡
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JOHN S. CHINDLUND	ALLEN SIMS
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THOMAS J. ERBIN	RICHARD H. THORNTON
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JENNIFER R. KORB	ROBERT G. WING
WILLIAM G. MARSDEN	MICHAEL N. ZUNDEL
JAMES W. McCONKIE III	

F. S. PRINCE (1910-1991)  
DAVID S. GELDZAHLER (1932-1994)

ROBERT M. YEATES (RETIRED)

† ALSO ADMITTED IN CALIFORNIA  
‡ ALSO ADMITTED IN IDAHO  
^ ALSO ADMITTED IN NEVADA  
€ ALSO ADMITTED IN TEXAS

November 2, 2010

Via Hand Delivery

Utah Division of Oil, Gas & Mining  
Attn: Suzanne Steab  
1594 West North Temple, Suite 1210  
P. O. Box 145801  
Salt Lake City, Utah 84114-5801

Re: *Payment of Assessments – Bear Canyon Mine, C/015/0025*

Dear Ms. Steab:

Enclosed please find three separate checks in the amounts described below in payment of the following proposed assessments issued by the Utah Division of Oil, Gas & Mining (the "Division"):

1. Notice of Violation #10031: Issued November 5, 2008 – Assessment dated January 29, 2009 in the amount of **\$1,870.**
2. Notice of Violation #10037: Issued April 21, 2009 – Assessment dated May 14, 2009 in the amount of **\$3,410.**
3. Notice of Violation #10068: Issued September 22, 2010 – Assessment dated October 11, 2010 in the amount of **\$990.**

Please note that Notice of Violation #10066, issued August 30, 2010 with a proposed assessment in the amount of \$2,310 is the subject of an assessment conference scheduled for November 18, 2010. Further, please note that the proposed assessment of \$1,760

RECEIVED

NOV 02 2010

DIV. OF OIL, GAS & MINING

PRINCE, YEATES & GELDZAHLER • A PROFESSIONAL CORPORATION • LAWYERS

City Centre I, Suite 900 • 175 East 400 South • Salt Lake City, UT 84111 • TELEPHONE (801) 524-1000 • FAX (801) 524-1098 • www.princeyeates.com

Division of Oil, Gas and Mining  
Suzanne Steab  
November 2, 2010  
Page 2

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dated March 19, 2009 in connection with Cessation Order #10034 is the subject of an ongoing appeal before the Board of Oil, Gas and Mining.

You will note that the payment of the identified assessments is being made by Kenneth A. Rushton, Chapter 7 Bankruptcy Trustee for C. W. Mining Company. While the Trustee understands and acknowledges that C. W. Mining has been the designated permittee for the Bear Canyon Mine at the relevant times of the identified violations, it should be noted that violations #10031 and #10037 were committed by Hiawatha Coal Company while it was in wrongful possession of the mine. Notwithstanding the Trustee's appointment in November 2008, Hiawatha Coal Company refused to recognize the Trustee's authority to possess and operate the mine for the benefit of the bankruptcy estate of C. W. Mining. Of further note, violation #10068 occurred after the Trustee transferred possession of the mine to Castle Valley Mining LLC, an affiliate of Rhino Energy LLC. In both cases, the Trustee has not been in a position to prevent the identified violations. Nevertheless, as the holder of the permit, the Trustee has elected to pay the identified assessments under protest, specifically reserving all rights that the Trustee might have to recover, or obtain reimbursement for, the payments made.

If you have any questions, please feel free to call.

Sincerely

PRINCE YEATES & GELDZAHLER



Christopher A. Jones, Esq.

cc: Kenneth A. Rushton, Trustee

**THE BANK OF NEW YORK MELLON**  
500 Ross Street, Suite 154-0510, Pittsburgh, PA 15262

**VOID AFTER 90 DAYS**

**10229**

60-249 / 433

Case Debtor

08-20105 B C.W. MINING COMPANY

92000220629366

PAYMENT OF NOV 10068

TID #640001

KENNETH A. RUSHTON, TRUSTEE  
99 WEST MAIN STREET  
P.O. BOX 212  
LEHI UT 84043

6  
13648

Date 11/02/2010

\$ \*\*\*\*\*990.00

~~~Nine Hundred Ninety Dollars and 00/100

Pay to the Order of UTAH DIVISION OF OIL, GAS & MINING

ORIGINAL CHECK  
ROUTED TO ACCOUNTING

  
KENNETH A. RUSHTON, TRUSTEE

⑈00010229⑈

**THE BANK OF NEW YORK MELLON**  
500 Ross Street, Suite 154-0510, Pittsburgh, PA 15262

**VOID AFTER 90 DAYS**

**10227**

60-249 / 433

Case Debtor

08-20105 B C.W. MINING COMPANY

92000220629366

PAYMENT OF NOV #10031

TID #640001

KENNETH A. RUSHTON, TRUSTEE  
99 WEST MAIN STREET  
P.O. BOX 212  
LEHI UT 84043

2  
13646

Date 11/02/2010

\$ \*\*\*\*\*1,870.00

~~~One Thousand Eight Hundred Seventy Dollars and 00/100

Pay to the Order of UTAH DIVISION OF OIL, GAS & MINING

ORIGINAL CHECK  
ROUTED TO ACCOUNTING

  
KENNETH A. RUSHTON, TRUSTEE

⑈00010227⑈

**THE BANK OF NEW YORK MELLON**  
500 Ross Street, Suite 154-0510, Pittsburgh, PA 15262

**VOID AFTER 90 DAYS**

**10228**

60-249 / 433

Case Debtor

08-20105 B C.W. MINING COMPANY

92000220629366

PAYMENT OF NOV #10037

TID #640001

KENNETH A. RUSHTON, TRUSTEE  
99 WEST MAIN STREET  
P.O. BOX 212  
LEHI UT 84043

4  
13647

Date 11/02/2010

\$ \*\*\*\*\*3,410.00

~~~Three Thousand Four Hundred Ten Dollars and 00/100

Pay to the Order of UTAH DIVISION OF OIL, GAS & MINING

ORIGINAL CHECK  
ROUTED TO ACCOUNTING

  
KENNETH A. RUSHTON, TRUSTEE