

MAY 08 2013

SECRETARY, BOARD OF
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

UTAH CHAPTER OF THE SIERRA CLUB, et
al,

Petitioners,

vs.

UTAH DIVISION OF OIL, GAS AND
MINING,

Respondents,

and

ALTON COAL DEVELOPMENT, LLC and
KANE COUNTY, UTAH,

Respondent-Intervenors.

**ORDER REGARDING BRIEFING
SCHEDULE ON MOTION FOR
RECONSIDERATION OF
ATTORNEY'S FEE STANDARD
RULING**

Docket No. 2009-019
Cause No. C/025/0005

Petitioner Utah Chapter of the Sierra Club and Respondent Alton Coal Development, LLC (ACD) have each filed, or announced their intention to file, petitions for an award of attorney's fees in this matter. Following briefing by the parties, the Board on March 27, 2013 issued its Decision and Order on the Legal Standard Governing Fee Petitions (the "Legal Standard Order"). That order addressed the limited, threshold question of the standard to be applied to requests for attorney's fees filed by permittees (in this case, ACD). On April 16, 2013, ACD filed a Request for Reconsideration (the "Reconsideration Motion") in which it asked the Board to reconsider its ruling as set forth in the Legal Standard Order.

Rather than rule summarily on the Reconsideration Motion, the Board will instead entertain that motion and set a briefing schedule.¹ The Board asks those parties opposing the Reconsideration Motion to file opposing briefs, up to a maximum of ten pages in length, by May 17, 2013. ACD may then file a reply brief of no greater than five pages in length by May 24, 2013. The Board does not intend to hear oral argument in connection with the Reconsideration Motion.

The Chairman's signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

Issued this 8th day of May, 2013.

UTAH BOARD OF OIL, GAS & MINING

A handwritten signature in black ink, reading "James T. Jensen", is written over a horizontal line.

James T. Jensen, Chairman

¹ Although ACD cites Utah Code Section 63G-4-302 in its Request for Reconsideration, that provision applies only where “the order [at issue] would otherwise constitute final agency action.” Because the Legal Standard Order is an interlocutory, non-final order, Section 63G-4-302 does not apply. ACD has also referenced Utah Admin. Code R641-110-100 and -200 in moving for reconsideration. Because that provision states that a rehearing may be sought with respect to a “final order or decision” of the Board, it may not be applicable here. In any event, even in the absence of a specific rule, because the Legal Standard Order is non-final and subject to revision at any time, the Board as a discretionary matter may entertain a motion to reconsider the rulings made therein. Given the unique circumstances surrounding the issues addressed in that order, the Board has elected to entertain and set a briefing schedule on the Reconsideration Motion.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **ORDER REGARDING BRIEFING SCHEDULE ON MOTION FOR RECONSIDERATION OF ATTORNEY'S FEE STANDARD RULING** for Docket No. 2009-019, Cause No. C/025/0005 to be mailed with postage prepaid, this 8th day of May, 2013, to the following:

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