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December 9, 1985

Mr. Lowell Braxton, Administrator
Mineral Resource Development
& Reclamation Program
Division of Oil, Gas & Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

JNA/043/001

Re: Summit Minerals, Inc. -- Coal Exploration or
Mining and Reclamation Plan Permit Applications --
Black Hawk Mine in Summit County, Utah

Dear Mr. Braxton:

Mark Moench of the Attorney General's Office has provided me a copy of a letter dated November 26, 1985, from the law offices of Hugh C. Garner & Associates. The letter was in response to your letter of November 5, 1985, to Mr. Jack Higgins, and included certain materials which Summit Minerals claims establishes its right to access across the surface of the land owned, in part, by my client, Joseph LaVerne Boyer. Specifically, it included a copy of a Right-of-Way Agreement of May, 1971; Decree Settling Final Account and Report of Administrator; Assignment of Right-of-Way; and a letter opinion dated September 15, 1977.

Mr. Lowell Braxton
December 9, 1985
Page Two

It is not clear from the documents submitted where the right-of-way in question purportedly is located. Neither the Right-of-Way Agreement nor other materials contains any property description. We would like to call to your attention, however, that that portion of the Boyer's property that is presently burdened with the recently constructed road to the Black Hawk Mine from the State Highway was not owned by the grantors under the Right-of-Way Agreement at the time that it was executed in May, 1971. Instead, that property was part of the Estates of Joseph H. Boyer and Lois R. Boyer. Accordingly, if the Right-of-Way Agreement sent to you is purported to refer to the now existing road, it was not obtained from the appropriate person. Joseph LaVerne Boyer received the property in question directly from the estate of his father, Joseph H. Boyer. Mr. Boyer has never entered into a right-of-way agreement concerning the mine.

Also included in the subject materials is a legal opinion by one Andrew John Brennan dated September 15, 1977. If you are inclined to give the slightest credence to the analysis and/or conclusions expressed in that opinion, I suggest that you provide a copy of it for the review of the Utah Attorney General's Office. Our criticism of and disagreement with the facts, reasoning and conclusions set forth in the opinion are too numerous to note here. However, we will be pleased to discuss the opinion with the Attorney General's Office in detail at their convenience.

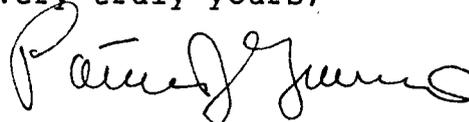
There is no right-of-way of record in Summit County, Utah and no credible legal opinion to the effect that the present owners of the Black Hawk Mine have any road access to the subject property. Although we recognize the fact that the Division of Oil, Gas and Mining is not in the business of adjudicating property disputes, an applicant's showing of access to the mine site must achieve some measure of specificity and credibility before the Division may accept it as "legal access" under the rules.

This is the first time that anyone has recently asserted any rights of access under either of the bases apparently claimed in the attachments to the November 26, 1985, letter. We are contemplating filing an action to quiet title against the applicants if they persist in their claims. We will keep you advised of the progress in that matter.

Mr. Lowell Braxton
December 9, 1985
Page Three

Finally, if the Division determines that the papers submitted are thought to constitute a valid right of access, please let me know what the basis for and location of that access is. Thank you very much.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Patrick J. Garver". The signature is written in black ink and is positioned below the typed name.

Patrick J. Garver

PJG/kc