

0009

SUMMIT MINERALS, INC.

221 West 2100 South
Salt Lake City, Utah 84115
(801) 486-1861

ONG - mine file
cc: DR NIELSON
KE May
LP BRAXTON
PRO/043/001

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AUG 10 1987

DIVISION OF OIL
GAS & MINING

August 8, 1987

Dr. Dianne R. Nielson, Director
State of Utah - Division of Oil, Gas, and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

RE: State Decision Package, Summit No. 1 Coal Mine, Reclamation
Plan, PRO/047/001, Summit County, Utah.

Dear Dr. Nielson:

Enclosed is Summit Minerals' response to the permit stipulations for the subject plan. Both Summit and Division staff have put a lot of time and effort into the project, and it looks like we're very close to being over the first hurdle.

I have major problems with the permit stipulations as they pertain to the sand and gravel deposit. It is Summit Minerals' firm position that:

1. Any surface disturbance which was made in the procurement of the sand and gravel resource is not included in this Reclamation Plan. Specifically, the alluvial fan which has been excavated for the mineral resource will not be regraded under this plan except to the extent that it directly pertains to coal related activities. Surface excavations made to support the sand and gravel operations are also not a part of this plan.
2. On September 10, 1985, Judge Fredrick of the Third District Court (Civil No. 8499) concluded that the sand and gravel on site is clearly the property of the surface owner. A preliminary injunction was issued which still precludes Summit Minerals, Inc. from excavating, mining, processing and/or selling the sand and gravel resource. Summit Minerals will unconditionally refuse to excavate, recontour and/or

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Dr. Dianne R. Nielson, Director
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regrade the sand and gravel resource under the current restrictions.

3. It is my understanding that in Utah, sand and gravel is regulated exclusively by the Department of Transportation. The Division of Oil, Gas, and Mining has no legal basis for requesting additional bonding for the recontouring, regrading, and revegetation of a sand and gravel deposit, or extraneous disturbances made in the procurement of sand and gravel.
4. The Division of Oil, Gas, and Mining is not in the business of mitigating property disputes. The operation and reclamation of sand and gravel is the concern of the surface owner and the Department of Transportation. Coal related activities and reclamation are the responsibility of Summit Minerals and the Division of Oil, Gas, and Mining. The physical location of the coal resource relative to the sand and gravel does not endorse double ownership and double regulation. There are places where coal related activity are superimposed on sand and gravel disturbances, but these areas are covered in the Reclamation Plan. Those areas which have been excluded, have been for a reason: Summit has no business including them, and the Division has no business regulating them.

As I have indicated in the past, I have no problem increasing the bond amount to cover building and structure removal. I will not, however, agree to the additional cost of regrading sand and gravel disturbances. I have attached my assessment of these costs, which total \$131,770. I believe the Division estimate is inappropriate in several areas, particularly where contingency factor is added to contingency factor. My estimate reflects documented, realistic values, with an overall contingency added on at the end.

Summit Minerals has put up some 52.89 acres of property near Walsburg, Utah as it's reclamation surety. On February 24, 1986, E. Stanford LeCheminant, IFAS, Senior Appraiser valued this property at \$4000 per acre. This corresponds to a 1986 property market value of \$211,560, which is more than adequate to cover the cost of reclamation. It is Summit Minerals' firm position that no additional surety will be provided unless specifically directed through the public judicial process (not the Board of Oil, Gas, and Mining).

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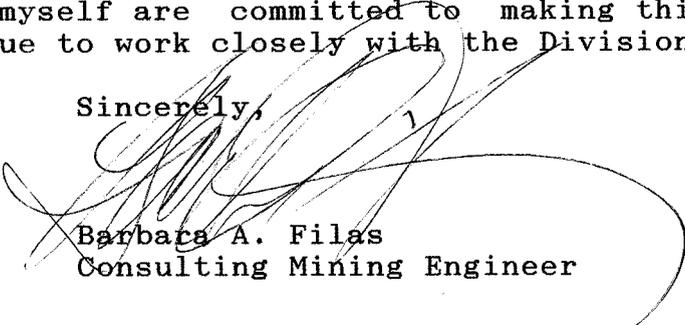
Page 2, paragraph 3 of the Administrative Overview discusses deferring reclamation activities until fall of 1988 if a mining and reclamation permit is not obtained. It is Summit Minerals intent to proceed with review of the Mining and Reclamation Plan, but that ball is in your court and has been for five months now. In reviewing the Permitting Chronology on this document, it doesn't appear that Summit is the party responsible for the significant time lapses. Summit fully intends to have six months of production under our belts by fall of 1988. The most significant factor affecting our start up date is the administrative delays on the part of the Division. Perhaps the wording can be changed such that as long as diligent efforts are being made toward permit approval, reclamation can be deferred.

When the Division is ready to issue the permit, I will provide the proof in insurance. I have no incentive to spend such a substantial sum even one day earlier than is absolutely necessary. It may be appropriate to consider issuing the permit, and Summit will provide proof of insurance at the time of reclamation activities. It certainly seems wasteful to pay tens of thousands of dollars for a piece of paper when there are no proposed activities under the coverage for at least a year.

My compliments to your Hydrologists, whose Cumulative Hydrologic Impact Assessment for the Summit Minerals/Summit Coal Mine area shows a lot of thought and work. It will certainly make it easy to incorporate into our mining permit.

It's nice to see this plan finally winding down, so that we all can get on with permitting the mine and putting some people to work in Utah. I believe the last year has shown that Summit Minerals, Jack Higgins, and myself are committed to making this mine viable. We will continue to work closely with the Division.

Sincerely,



Barbara A. Filas
Consulting Mining Engineer

BAF/b
enclosure

cc: J. Higgins

RESPONSE TO STIPULATIONS

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Reclamation Plan
Summit Minerals, Inc.
Summit No. 1 Coal Mine
PRO/047/001
Summit County, Utah

DIVISION OF OIL
GAS & MINING

August 8, 1987

UMC 800. - 1 - JRH Accepted.

UMC 800. - 2 - JRH Accepted. It is the Summit Minerals' position that we have provided adequate bonding in the appropriate form and amount.

UMC 817.25 - 1 - JSL Accepted. This fertilizer is already included in the bond estimate.

UMC 817.42 - 1 - RS Accepted.

UMC 187.42 - 2 - RS Accepted conditionally. Summit Minerals will maintain adequate sedimentation control structures between disturbed areas and Chalk Creek. Since the time that this Reclamation Plan document was prepared, Summit met with representatives of the Division and the Division of Wildlife to discuss the impacts of the proposed activities on area wildlife. It was the consensus of those present that reclaiming this pond would not only destroy wetland habitat, but also destabilize the existing condition. It was decided that leaving this pond as it is will better support the post mining land use of wildlife habitat as well as minimize impacts on the aquarian community in Chalk Creek.

UMC 817.44 - 1 - RS Accepted.

UMC 817.46 - 1 - RS Accepted.

UMC 817.46 - 2 - RS Rejected. Summit Minerals provided documentation supporting the assumptions made in the sedimentation pond design. The biggest discrepancy appears to be lie in the K factors used in the Universal Soil Loss Equation. Summit has referenced Mr. Tom Watson of the U.S Soil Conservation Service as the source of K factors used. Mr. Watson is a qualified professional who lives and works in the area of the proposed activities on a daily basis. Summit is comfortable with his knowledgeable opinion. The Division has provided no basis or documentation as to why a significantly greater K factor is assumed. Unless the Division provides adequate references to

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discredit Mr. Watson's opinion, Summit will continue to support our original, documented proposal.

UMC 817.49 - 1 - RS Accepted.

UMC 817.89 - 1 - JRH Accepted.

UMC 817.99 - 1 - JRH Accepted.

UMC 817.101 - 1 - JRH Rejected. The sand and gravel deposit in the southeastern end of the disturbed area will not be affected by the proposed Reclamation Plan. The Division of Oil, Gas, and Mining has no legal basis for requiring the reclamation of sand and gravel operations.

UMC 817.101 - 2 - JRH Rejected. Any excavation which resulted from the extraction of sand and gravel is not a part of this Reclamation Plan. The Division of Oil, Gas, and Mining has no legal basis for requiring the reclamation of sand and gravel operations.

UMC 817.101 - 3 - JRH Rejected. The pad area, on which Summit has proposed to build a spoil pile, was developed to support and stockpile excavated sand and gravel. The Third District Court has enjoined Summit Minerals from further excavating sand and gravel on site. Summit will provide no plans for regrading and recontouring in this area. Plans for the disposition of the spoil which is excavated pursuant to coal mining activities are consistent with the Court judgement. Plans for the structural modification of the sand and gravel resource are not only in direct defiance of the judgement, but also not regulated by the Division. The proposed spoil pile allows for a fifteen foot flat area between the toe of the spoil pile slope and the crest of the pad slope. This will not preclude ingress and egress of livestock.

UMC 817.101 - 4 - JRH Rejected. Summit Minerals is of the opinion that disturbing areas, which are for the most part stabilized and revegetated, adjacent to Chalk Creek is by far more damaging than regrading. Destabilizing flood banks by regrading destroys established vegetation, promotes erosion, and increases siltation in downstream structures. It unnecessarily degrades water quality which provides critical habitat for the aquatic communities. Summit's decision not to regrade this area was prudent and deliberate. Occasionally we must look at the real world impacts as opposed to the requirements cited in rule books.

UMC 817.181 - 1 - JRH Accepted.