0006

June 22, 1987

TO: Memo to Coal File:

FROM: Joseph C. Helfrich, Compliance Coordinator

RE: Citizens Complaint, Summit Minerals Inc., Blackhawk Mine, INA/043/001, Folder # 5, Summit County, Utah

DATE	TRANSACTION
* April 28, 1987	Fern Boyer - DOGM-letter dated 4-22-1987 enumerating the surface owners concerns relative to activities at the Blackhawk Mine.
May 1, 1987	DOGM - Bob Filas - Division staff members, Ken May, Joe Helfrich, Randy Harden and Rick Summers met with Bob Filas (Permit contact for Summit Minerals Inc.) and discussed items of concern enumerated in Fern Boyer's letter of April 22, 1987.
May 1, 1987	DOGM-Gary Boyer - Joe Helfrich called Gary Boyer informing him of the proposed inspection of the Blackhawk site slated for 5-7-87 at which time Division staff members would address the concerns enumerated in Fern Boyer's letter. A briefing was scheduled at Gary Boyer's home on 5-5-87.
May 5, 1987	DOGM - Gary Boyer - Division staff members Randy Harden, Joe Helfrich met with Gary Boyer at his home and discussed the concerns enumerated in Fern Boyer's letter relative to site locations at the Blackhawk Mine.
* May 6, 198	Barbara Filas - Joe Helfrich - Letter stating Summit Minerals position regarding Fern Boyer's letter of 4-22-87.
May 7, 1987	DOGM site inspection - Division staff members Randy Harden, Rick Summers, Joe Helfrich inspected the Blackhawk mine site and noted the following: Bridge embankments on both sides of Chalk Creek that presently support the bridge for access to the site are eroding, showing tension cracks, and in need of maintenance. Cement slabs removed from the

old tipple pad have been placed on one of the embankments to deter erosion. 2) Development pads - By comparing the photos of the development pads on the previous inspection, it was apparent that material had been removed from these pads. 3) Highwall headcut - A trench had been constructed approximately 75 - 125 yards above the old portal highwall. The trench was approximately 125 feet long, 12 feet wide, and ranged from 0 - 10 feet deep. 4) Blocked drainage - approximately 75 yards due south or up the canyon from the trench, the natural drainage has been permanently blocked and the culvert removed from the road that crosses the drainage.

May 8, 1987 DOGM - Barb Filas - Division staff members Joe Helfrich, Ken May, Lowell Braxton, Rick Summers and Randy Harden met with Bob Filas to discuss the observations noted during the 5-7-87 inspection of the Blackhawk site. Ms. Filas was advised to contact Gary Boyer and subsequently petition the board with a unified approach to modify the exiting Board Order of 12-5-86 allowing Summit Minerals Inc. to adequately address the Boyer's concerns e.g., bridge maintenance, old tipple pad removal, and the guaranteed access by sheep to Chalk Creek from their Summer Range.

* Attachments

cc: D. Griffin, OSM AFO
L. Braxton
R. Harden
R. Summers

0407Q-69

April 22, 1987

RECEIVED
APR 28 1987
DIVISION OF
OIL, GAS & MINING

Utah State Division of Oil, Gas,
and Mining
Salt Lake City, Utah

Dear Sirs:

I am writing to you in reference to our conversation of last week in which we discussed a reclamation project that we, the Boyer Family feel is long overdue, and justified at the Blackhawk Coal Mine in Summit County: T3N, R6E, Section 36, located 12 miles east of Coalville.

Jack Higgins and his help, pushed new roads, dug deep holes to gain access to gravel, etc.,and removed a great deal of vegetation which served as a water shed from our hillside, and also feed for livestock. He also left piles of gravel and rock in an unsitely way.

At the present time, a great amount of erosion is taking place. The content of the soil is of rock and clay content. During storms, or early spring run-off, much mud, rock and other debris runs or slides on the slopes.

I am concerned that a major slide could occur where Mr. Higgins has hollowed the ground out under the mountain slope. We feel it should be his responsibility to restore this area.

Our only source of income on that particular piece of land, to have it productive at the present time is to have sheep graze upon it. In the very near future, we are planning to have about 900 head of sheep in this grazing area. The ewes either have lambs or will produce within the next four weeks. Large holes have been left where these sheep graze. If a ewe gets in a hole, she seldom is able to get off her back. The lambs cannot jump high enough to get out of the holes in most instances. Partial areas have been pushed with a caterpillar, resulting in barren ground that needs reseeding. Large, steep walls have been exposed and left, which could be hazardous for livestock and deer.

These conditions which I am referring to have been maintained the last two years, and are of such an unreasonable nature that they deprive us of the beneficial use of our land. Drainage ponds that have been constructed encourage the breeding of mosquitos and is accompanied with an unpleasant odor when hot summer days arrive.

We have been extremely fortunate the last two years to have escaped the threat of flash floods. This area is notorious for flash floods in July. Existing conditions could encourage flooding to nearby fields and fences which we maintain.

We feel the hills should be returned to a natural slope to minimize our liability. Possibly it would be to our advantage to be able to sit down with a geologist and discuss the slopes for our benefit. Where core samples for testing have been made, we feel the need for the ground to be revegetated. We would like all holding ponds above the mine, and to the south, removed and landscaped properly. The road up to the top of the hill that we use to drive on when livestock is in that area, has been cut-up and made impassable. It should be regraded and restored.

We would like all concrete and asphalt that has been installed without our permission to be removed.

There is erosion even taking place at the bridge crossing the Chalk Creek. Makeshift and inadequate procedures have contributed to this condition so the bridge has dropped very low and is very susceptible to action caused by the creek. We have understood that the changing of the natural course of the river is illegal. Jack has tried to do this and it has removed the gravel bed of the river so the water washes under and around the riverbed, making an unstable condition for the bridge to rest upon.

On every occassion of our meetings, we have heard that the Boyer's have been contacted and we have given our approval on all of these matters. We find ourselves a little bitter and resenting these statements because absolutely no contact has ever been made regarding restoration, nor use.

We would like all of these matters tended to. We would like all unsightly items and old equipment or debris removed and cleaned up for safety and for the usefulness of our land to be restored.

Since we are in possession of this land, we find a constant source of interferrence, directly and indirectly, to our efficiency and farm operations. It is a situation that is difficult to deal with. It is our strong desire to have this land restored to its normal condition and prove itself productive so our expenses and work can be justified.

We are sincerely hoping you will assist us in the enforcement of this reclamation if it is in your power to do so.

Your help and assistance would be greatly appreciated by myself and my family.

Sincerely,

Fern L. Boyer

Fern L. Boyer
5050 Ben Lomond
Ogden, Utah
84403

Gary Boyer
621-6060 -
479 0769

5985 S @ 9:50

105 E.

S-OGDEN

MTN ES. in

light @ Ham. + WASH stay on Wash.

2 blocks past no light left ≅ 2 blocks back

to south.

☎ 479-1769

Joe

5-6-87
11:00

Barbara Silas

486-1861

SUMMIT MINERALS, INC.

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

RECEIVED
MAY 06 1987
DIVISION OF
OIL, GAS & MINING

May 6, 1987

Mr. Joseph C. Helfrich
State of Utah, Division of Oil, Gas, and Mining
3 Triad Center - Suite 350
355 West North Temple
Salt Lake City, UT 84180-1203

RE: Summit Minerals' Position Regarding F.L. Boyer's 04/22/87 Letter Regarding the Blackhawk Mine, PRO/043/001, Summit County, Utah.

Dear Mr. Helfrich:

I have enclosed a copy of my position regarding the subject letter.

Please let me know when (if) you plan to inspect the site pursuant to this letter. I certainly want to be present at the inspection so that I am included in any subsequent discussion.

Thank you,
SUMMIT MINERALS, INC.

Barbara A. Filas
Engineer

enclosure

cc: J. Higgins

~~2783 Holiday Ranch Loop Road • Park City, Utah 84060 • (801) 645-7565~~

SUMMIT MINERALS, INC.
POSITION ON 04/22/87 LETTER TO DOGM FROM F.L. BOYER

Boyer Letter - Paragraph 1: I am writing to you in reference to our conversation of last week in which we discussed a reclamation project that we, the Boyer Family feel is long overdue, and justified at the Blackhawk Coal Mine in Summit County: T3N, R6E, Section 36, located 12 miles east of Coalville.

Summit Position wrt Paragraph 1: Summit Minerals was required by a Board Order in December, 1986 to post a bond and to "file a reclamation plan" for the Blackhawk Mine site. Summit has never stated nor implied that it intended to reclaim this surface without first utilizing it to support coal mining activities. A considerable amount of time and money has been put into the proposed mine development, operation, and reclamation on this property. Summit fully intends to execute these plans in that order.

It is also Summit's position that we have fulfilled the December 6, 1985 Board Order, which required on page 8, item 9 that a reclamation plan be filed with the Division. Because Summit has now filed a mining and reclamation plan which is intended to supercede the reclamation plan, it appears that review of the stand alone reclamation plan is not only a waste of Division time and taxpayer monies, not to mention Summit's time and monies as well, but also defers the approval of a plan which ultimately will put at least 30 people to work in Summit County.

Boyer Letter - Paragraph 2: Jack Higgins and his help, pushed new roads, dug deep holes to gain access to gravel, etc., and removed a great deal of vegetation which served as a water shed from our hillside, and also feed for livestock. He also left piles of gravel and rock in an unsightly way.

Summit Position wrt Paragraph 2: Summit Minerals excavated sand and gravel products under a lease agreement in which the lessor warranted that he was the lawful owner of the commodity. When mineral and surface ownership was severed on this property on May 12, 1930, the owners reserved for themselves:

> "...all the oil, gas, coal and minerals in, on or under the surface of said lands, and all the rights of ownership therein, and reserve to themselves, their heirs, successors and assigns the right and license of exploring, mining, developing or operating for any or all of said products upon said lands, and of erecting thereon all necessary buildings, pipe lines, machinery and equipment necessary in and about the business of mining, developing or operating for any of said products, hereby reserving to themselves, their heirs,

successors and assigns all the rights of a full owner operating on his own land according to all the privileges and customs of the field that may be developed about said tract of land..."

The excavation of roadways and exposition of the sand and gravel deposit are well within the provisions of the 1930 mineral reservation. Summit Minerals is not aware of the purported "deep holes".

The Boyer Family challenged the validity of Summit Minerals' sand and gravel lease agreement with the mineral owners, alleging that they were the owners of the sand and gravel deposit. On September 10, 1985, Judge Fredrick of the Third District Court of Summit County ruled in the Boyer's favor and issued a Preliminary Injunction enjoining Summit Minerals from further excavating, mining, processing, or selling the sand and gravel. Summit Minerals has not touched the sand and gravel on site since the injunction was imposed.

Boyer Letter - Paragraph 3: At the present time, a great amount of erosion is taking place. The content of the soil is of rock and clay content. During storms, or early spring run-off, much mud, rock and other debris runs or slides on the slopes.

Summit Position wrt Paragraph 3: This allegation is true with respect to the slope face of the sand and gravel deposit. Representatives of Summit Minerals have personally witnessed the movement of surface soil materials from the sand and gravel deposit during spring runoff from accumulated snow pack.

First, because sand and gravel regulation is not under the jurisdiction of the Division of Oil, Gas, and Mining, this cannot be determined to be a violation of the Utah Mining Code as it relates to coal mining activities. Second, the Third District Court ruled that the sand and gravel deposit is the property and responsibility of the Boyer Family and enjoined Summit Minerals from any excavation activities associated with the deposit.

Boyer Letter - Paragraph 4: I am concerned that a major slide could occur where Mr. Higgins has hollowed the ground out under the mountain slope. We feel it should be his responsibility to restore this area.

Summit Position wrt Paragraph 4: Again, the Division of Oil, Gas, and Mining does not regulate sand and gravel deposits in the State of Utah. The Third District Court has issued a preliminary injunction against Mr. Higgins and Summit Minerals precluding any "excavation, mining, processing, and/or selling of the sand and gravel" from this land. Summit Minerals has no intention of

defying this court injunction by further excavating this area, except that it be in the procurement of the coal resource.

Boyer Letter - Paragraph 5: Our only source of income on that particular piece of land, to have it productive at the present time is to have sheep graze upon it. In the very near future, we are planning to have about 900 head of sheep in this grazing area. The ewes either have lambs or will produce within the next four weeks. Large holes have been left where these sheep graze. If a ewe gets in a hole, she seldom is able to get off her back. The lambs cannot jump high enough to get out of the holes in most instances. Partial areas have been pushed with a caterpillar, resulting in barren ground that needs reseeding. Large, steep walls have been exposed and left, which could be hazardous for livestock and deer.

Summit Position wrt Paragraph 5: Summit Minerals, again, is not aware of the purported large holes. There are no known large holes on the coal related disturbance.

Summit Minerals is barred from occupancy of the Boyer property under the December 6, 1985 Board Order except for the limited purposes of maintaining security and gathering data and information for permit acquisition. Summit Minerals is further barred from any disturbance of the sand and gravel deposit under the Third District Court Preliminary Injunction. Summit Minerals has no intention of performing any remedial earthwork or revegetation under the current restrictions.

Boyer Letter - Paragraph 6: These conditions which I am referring to have been maintained the last two years, and are of such an unreasonable nature that they deprive us of the beneficial use of our land. Drainage ponds that have been constructed encourage the breeding of mosquitos and is accompanied with an unpleasant odor when hot summer days arrive.

Summit Position wrt Paragraph 6: Sedimentation ponds are required under the Utah Mining Code for disturbances made pursuant to coal mining activities. For a disturbed area the size of the Boyer property, there are no provisions for exemption from this requirement. The sedimentation ponds actually have water contained in them for only a short period of time. Evaporation and percolation render the ponds dry probably 80% of the time. Chalk Creek, however, is perennial stream which probably provides a favorable habitat for mosquitos.

Boyer Letter - Paragraph 7: We have been extremely fortunate the last two years to have escaped the threat of flash floods. This area is notorious for flash floods in July. Existing conditions

could encourage flooding to nearby fields and fences which we maintain.

Summit Position wrt Paragraph 7: Summit Minerals is not aware of the purported existing conditions for which we could potentially be responsible.

Boyer Letter - Paragraph 8: We feel the hills should be returned to a natural slope to minimize our liability. Possibly it would be to our advantage to be able to sit down with a geologist and discuss the slopes for our benefit. Where core samples for testing have been made, we feel the need for the ground to be revegetated. We would like all holding ponds above the mine, and to the south, removed and landscaped properly. The road up to the top of the hill that we use to drive on when livestock is in that area, has been cut-up and made impassable. It should be regraded and restored.

Summit Position wrt Paragraph 8: When mining activities are permanently discontinued and the surface disturbances reclaimed, Summit Minerals has proposed to reclaim all surfaces associated with the coal mine to their approximate original contour. Summit Minerals has not proposed to use, nor maintain roads which access the southern portion of the Boyer property.

Boyer Letter - Paragraph 9: We would like all concrete and asphalt that has been installed without our permission to be removed.

Summit Position wrt Paragraph 9: The original sale agreement of the surface lands to the Boyer Family in 1930 (see Summit Response wrt Paragraph 2) included a clause reserving to the mineral estate "...all the rights of a full owner operating on his own land...". That provision appears to allow the mineral owner to develop said lands as necessary to support mining operations, and without the consent of the surface estate, since an owner operating on his own land would need no such concent.

Summit Minerals has proposed to remove all concrete and asphalt and dispose of it in the manner described in the mining and reclamation plans.

Boyer Letter - Paragraph 10: There is erosion even taking place at the bridge crossing the Chalk Creek. Makeshift and inadequate procedures have contributed to this condition so the bridge has dropped very low and is very susceptible to action caused by the creek. We have understood that the changing of the natural course of the river is illegal. Jack has tried to do this and it has removed the gravel bed of the river so the water washes under

and around the riverbed, making an unstable condition for the bridge to rest upon.

Summit Response wrt Paragraph 10: Summit Minerals informed DOGM of the stability problems associated with the bridge on May 16, 1984. Remedial work done on the bridge was with DOGM knowledge and without the issuance of any violation.

Boyer Letter - Paragraph 11: On every occasion of our meetings, we have heard that the Boyer's have been contacted and we have given our approval on all of these matters. We find ourselves a little bitter and resenting these statements because absolutely no contact has ever been made regarding restoration, nor use.

Summit Response wrt Paragraph 11: Summit Minerals has, on 12/29/86, 01/23/87, and 04/14/87 requested that the Boyer Family meet with Summit representatives to review and provide their input regarding the mining and reclamation plans. There has been no response to date from the Boyer Family, although the contact on 01/23/87 was a personal telephone conversation between Barbara Filas of Summit Minerals and Mrs. Boyer herself. Additional correspondence dated 01/16/87 and 03/23/87 was also sent to Mrs. Boyer.

Telephone contact between Summit Minerals and Patrick Garver, counsel for the Boyer Family, has also taken place. It may be that Mr. Garver did not discuss his contacts with the Boyer Family.

Boyer Letter - Paragraph 12: We would like all of these matters tended to. We would like all unsightly items and old equipment or debris removed and cleaned up for safety and for the usefulness of our land to be restored.

Summit Response wrt Paragraph 12: When mining activities are permanently discontinued at this site, all materials and equipment will be removed and the surface reclaimed according to the mining and reclamation plans.

Boyer Letter - Paragraph 13: Since we are in possession of this land, we find a constant source of interference, directly and indirectly, to our efficiency and farm operations. It is a situation that is difficult to deal with. It is our strong desire to have this land restored to its normal condition and prove itself productive so our expenses and work can be justified.

Summit Response wrt Paragraph 13: The Boyer Family inherited this land subject to the original 1930 agreement and provisions.

That reservation of mineral rights and surface use are a preexisting contract which the Boyer Family must live with.

Boyer Letter - Paragraph 14: We are sincerely hoping you will assist us in the enforcement of this reclamation if it is in your power to do so.

Summit Response wrt Paragraph 14: There appears to be no question regarding DOGM authority in enforcing reclamation commitments and monitoring activities in the State of Utah. Summit Minerals anticipates such treatment when mining activities are permanently discontinued and the surface reclaimed.

Boyer Letter - Paragraph 15: Your help and assistance would be greatly appreciated by myself and my family.

Summit Response wrt Paragraph 15: DOGM is not in the business of mitigating property disputes, as appears to be the case in this situation. The State's responsibility lies in maintaining and enforcing the laws regarding coal mining activities according to the provisions of the Utah Mining Code. Helping or assisting either party within that responsibility is warranted and generally appreciated by both sides, but going beyond that jurisdiction is inappropriate.