

0007

Document Information Form

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Explanation:

COLLATERAL BONDING AND
INDEMNITY AGREEMENT

cc:

File in: C/043/001, 1993, Incoming

Refer to:

- Confidential
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Date _____ For additional information

COLLATERAL BONDING AND INDEMNITY AGREEMENT

THIS COLLATERAL BONDING AND INDEMNITY AGREEMENT entered into by and between Summit Minerals, Inc. (hereinafter referred to as "Summit") and Johnell Limited Partnership (hereinafter referred to as "Johnell"), and the State of Utah by and through the Department of Natural Resources, Division of Oil, Gas and Mining (hereinafter referred to as "the Division").

W I T N E S S E T H

WHEREAS, Summit is interested in obtaining a Permit from the Division to conduct surface coal mining activities and operate the Blackhawk Coal Mine in Summit County, Utah, as an underground coal mine under the Utah Coal Mining and Reclamation Act, Utah Code Ann. § 40-10-1, et seq., 1953, as amended and the Mined Land Reclamation Act, Utah Code Ann. § 40-8-1, et seq., 1953, as amended (hereinafter collectively referred to as the "Act") and implementing regulations; and

WHEREAS, Summit has been found to have conducted surface coal mining operations at the Blackhawk Mine and is thus required to post a reclamation Bond pursuant to the Order of the Board of Oil, Gas and Mining ("Board") issued in Cause No. INA/043/001, Docket No. 85-070, on December 13, 1985 ("Order"). A copy of the Board's Order is attached hereto as Exhibit A; and

WHEREAS, Summit wishes
Collateral Bonding Rule UMC 800.
hundred and twenty thousand three

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WHEREAS, Summit has been found to have conducted surface coal mining operations at the Blackhawk Mine and is thus required to post a reclamation Bond pursuant to the Order of the Board of Oil, Gas and Mining ("Board") issued in Cause No. INA/043/001, Docket No. 85-070 , on December 13, 1985 ("Order"). A copy of the Board's Order is attached hereto as Exhibit A; and

WHEREAS, Summit wishes to provide a bond under Collateral Bonding Rule UMC 800.21(c), in the amount of One hundred and twenty thousand three hundred dollars (\$120,300.00)

in order to cover the cost of reclamation as outlined in the reclamation bond report dated March 21, 1985, a copy of which is attached hereto as Exhibit B; and

WHEREAS, John L. Margetts, a member of the board of directors of Summit, has agreed to provide a parcel of real estate to serve as collateral in order that Summit may submit a Reclamation Bond in compliance with the requirements of the Act and the Board's Order; and

WHEREAS, John L. Margetts, by and through Johnell, a Utah limited partnership, in which Mr. Margetts is a General Partner, has provided a Trust Deed covering certain real property described therein, naming the Division as Beneficiary, as collateral to secure this Collateral Bonding and Indemnity Agreement. A copy of the Trust Deed is attached hereto as Exhibit C; and

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, Summit does hereby agree to be held and firmly bonds to the Division for the sum of One hundred and twenty thousand three hundred dollars (\$120,300.00) for the timely performance of reclamation responsibilities for the disturbed area designated in Exhibit B in lawful money of the United States. By the submission of this Collateral Bonding and Indemnity Agreement, Summit binds itself, its successors and assigns, jointly and severally, by these presents.

The conditions of the above obligations are such that:

1. Summit shall perform all duties and fulfill all requirements applicable to reclamation as set forth in the Act, and regulations adopted pursuant thereto, the Boards' Order, any subsequent order of the Board, and the conditions of any permit issued by the Division which allows Summit to conduct surface coal mining exploration and operations at the Blackhawk Mine site.

2. The liability under this Agreement shall continue until successful reclamation of the disturbed area as set forth in Exhibit A and in any subsequently approved Reclamation Plan for the Blackhawk Mine for a period of time and in the manner specified in the Act, regulations adopted by the Board, and in any Board order.

3. Summit does hereby agree to indemnify and hold the Division harmless from any claim demand, liability, cost, charge or suit brought by a third party, as a result of Summit's failure to abide by the terms and conditions of any Division approved Reclamation Plan for the Blackhawk Mine and from any failure to comply with the terms of this Agreement or any Board order.

4. Upon successful completion of part or all of the obligations secured hereby, Summit or Johnell may petition the Division for a final release of part or all of the obligations under this Agreement. Upon such petition, the Division shall timely conduct an inspection to ascertain whether the duties and obligations of Summit under the Act, regulations adopted pursuant thereto, any mining permit issued for the Blackhawk Mine or under

any Board order, have been fulfilled. If such duties and obligations have been fulfilled, the Division shall release Summit and Johnell from part or all of its obligations under this Agreement and shall file a notice of such release in the property records of Summit and Wasatch Counties.

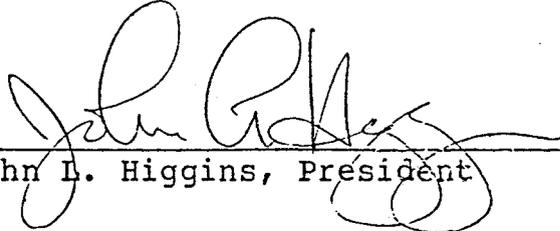
5. By entering into this agreement, the Division does not represent that it has accepted the value of the collateral as indicated in the Summit/Johnell appraisal report. This Agreement shall be reviewed periodically by the Division, or reviewed upon petition by Summit or Johnell, in accordance with the Act and implementing regulations. The amount of liability under this Agreement may be adjusted upon written notice to Summit, if in the opinion of the Division, the cost of future reclamation has materially changed or the Collateral which secures this Bond is deemed insufficient to cover the cost of reclamation.

6. This Agreement may be terminated upon 90 days prior written notice to the Division if terminated by Summit or upon 90 days written notice to Summit if terminated by the Division. Upon such written notification, Summit will have 90 days to obtain an alternate form of bond acceptable to the Division to secure reclamation obligations as set forth hereunder or in any Board order for governing the Blackhawk Mine in the same amount as stated in this Agreement or amendments adjusting the amount thereto. If Summit is unable to obtain an alternate form of bond acceptable to the Division, this agreement will not be terminated and will continue until all obligations herein are fulfilled.

7. In the event reclamation becomes necessary under the Act, regulations enacted thereunder or under an order of the Board, the disturbed area as shown in Exhibit B will be reclaimed pursuant to the reclamation standards set forth under the Act, the regulations, any subsequent Board order or any reclamation plan submitted by Summit and approved by the Division prior to the date reclamation operations begin. Should Summit default under the terms of this contract or any Board order and fail to conduct any required reclamation, the Division will seek forfeiture of this bond pursuant to the Act, regulations or any Board order and begin foreclosure proceedings to sell the collateral hereunder to cover the cost of reclamation. It is expressly agreed by the parties hereto that in the event the proceeds from the sale of the collateral appear to be insufficient to pay for the expense of reclamation, the Division will seek to collect from Summit any deficiency between the proceeds from the sale of the collateral and the amount of this Bond.

SO AGREED this 4 day of June, 1986.

SUMMIT MINERALS, INC.

BY 
John L. Higgins, President

STATE OF Utah)
) ss:
COUNTY OF Salt Lake)

On the 2nd day of June, 1986, personally appeared before me John L. Margetts who being by me duly sworn did say that he the said John L. Margetts, is the General Partner of Johnell Limited Partnership and said Collateral Bonding and Indemnity Agreement was signed in behalf of said Partnership by authority of its partnership agreement or an amendment thereto executed by all of the general partners.

Marionie L. Anderson
NOTARY PUBLIC
Residing at: Salt Lake City, Utah

My Commission Expires:

July 24, 1989

STATE OF Utah)
) ss:
COUNTY OF Salt Lake)

On the 4th day of June, 1986, personally appeared before me Dr. Dianne R. Nielson, who being duly sworn did say that she for herself, that she, the said Dr. Dianne R. Nielson is the Director of the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah, and she duly acknowledged to me that said Division executed the foregoing Collateral Bonding and Indemnity Agreement by authority of law on behalf of the State of Utah.

Marionie L. Anderson
NOTARY PUBLIC
Residing at: SLC, Utah

My Commission Expires:

July 24, 1989