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STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

October 28, 1985

CERTIFIED RETURN RECEIPT REQUESTED
(P402 457 244)

Mr. Jack Higgins
Utah Coal and Energy Company
2873 Holiday Ranch Loop
Park City, Utah 84060

Dear Mr. Higgins:

RE: Cessation Order C85-1-2-1, Blackhawk Mine, INA/043/001,
Summit County, Utah

Please refer to the narrative and Findings of Fact (enclosed) wherein your petition for temporary relief from the above-captioned Cessation Order (CO) was presented to the Board of Oil, Gas and Mining, September 9, 1985.

I specifically direct your attention to Finding of Fact #7, page 3, wherein petitioner commits to filing a \$100,000.00 reclamation bond by September 30, 1985. I am concerned that the bond has not been received by the Division of Oil, Gas and Mining to date and wish to remind you that vacation of the CO did not preclude the need to submit the stipulated \$100,000.00 reclamation bond.

I encourage you to continue to pursue acquisition of the exploration permit for this property, but wish to state that acquisition of the exploration permit and bonding for post-SMCRA disturbance on this site are two separate issues. DOGM

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Mr. Jack Higgins
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will process your exploration permit application in a timely manner when all requisite data have been submitted. Until that time, no coal related construction activities are approved for this site.

Sincerely,



Lowell P. Braxton
Administrator
Mineral Resource Development
and Reclamation Program

btb

cc: John Davis
Mark Moench
Ken May
Joe Helfrich
Tom Suchoski
0168R-26 & 27

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

IN RE: : FINDINGS OF FACT,
 : CONCLUSIONS OF LAW,
JACK HIGGINS, CESSATION ORDER : AND ORDER
C85-1-2-1, BLACK HAWK MINE :
SUMMIT COUNTY, UTAH : Docket No. 85-044
 : Cause No. INA/043/001

Petitioner, Jack Higgins' Petition for Temporary Relief was heard by Gregory P. Williams, Chairman of the Board of Oil, Gas and Mining ("Board"), Department of Natural Resources, State of Utah on Monday, September 9, 1985 at 4:00 p.m. in the offices of the Division of Oil, Gas and Mining ("Division"), 3rd Floor, 355 Triad Center, Salt Lake City, Utah 84180-1203.

The Division was represented by Mark C. Moench, Esq., Assistant Attorney General for the State of Utah.

Also present on behalf of the Division were Kenneth E. May, Associate Director, Coal and Joseph C. Helfrich, Mining Field Supervisor.

The Petitioner was represented by A. John Davis of Hugh C. Garner and Associates, P.C., 310 South Main Street, Suite 1400, Salt Lake City, Utah 84101.

NOW, THEREFORE, the Board by and through the Chairman, having heard and considered the arguments of Petitioner and the Division, and being fully advised in the premises, now makes and enters the following:

FINDINGS OF FACT

1. The Board has jurisdiction over the subject matter of the Petition and over all parties interested therein and has jurisdiction to make and promulgate the order herein set forth.

2. All parties to the proceedings have been notified and given an opportunity to be heard.

3. On August 14, 1985 Joseph C. Helfrich, Mining Field Supervisor, issued Cessation Order C85-1-2-1 to Petitioner ordering Petitioner to cease all activity at the Black Hawk Mine immediately and submit a mining and reclamation plan or reclaim the area of the Black Hawk Mine. In addition, by letter of August 15, 1985, Mr. Helfrich informed Petitioner that in conjunction with said Cessation Order was the assessment of a \$750.00 per day penalty beginning upon receipt of the letter.

4. On or before August 17, 1985, all coal mining related activity had ceased at the Black Hawk Mine.

5. Petitioner has not mined or removed any coal from the Black Hawk Mine.

John
6. Petitioner, ^{represents that, +} is diligently proceeding with the preparation of documents, maps and other data for submission of an application for a coal exploration permit, or an application for a coal mining permit and reclamation plan.

7. Petitioner has committed to the filing of a \$100,000.00 reclamation undertaking or bond and indemnity agreement by September 30, 1985 and is in the process of obtaining same. That upon receipt and approval of said bond, the Division has agreed to vacate said Cessation Order.

8. Petitioner argued that the daily assessment is causing him irreparable loss and damage in that Petitioner is a small operator with limited capital. The continued assessment of the daily minimum of \$750.00 per day if continued would severely limit Petitioner's ability to expend the sums necessary to prepare and submit the applications and notices referred to in paragraph 6 above.

9. The relief requested will not adversely affect the public safety or health or cause significant imminent environmental harm to the land, air and water resources.

10. Petitioner's request is for temporary relief from the assessment of daily penalties between September 9, 1985, the date of the hearing, and September 30, 1985 the date tentatively set for hearing before the Division's designated assessment officer.

CONCLUSIONS OF LAW

1. The Board has the authority, pursuant to Section 40-10-22(3)(c), Utah Code Ann. (1953, as amended) to grant temporary relief from all or part of Cessation Order C85-1-2-1.

2. The affirmative obligations of Petitioner as set forth in Cessation Order C85-1-2-1 will remain in full force and effect.

ORDER

Based upon the foregoing, it is hereby ordered:

1. That the penalty assessment of \$750.00 per day is hereby abated in full from September 9, 1985 up to and including September 30, 1985.

2. That said daily penalty shall automatically be reinstated on October 1, 1985 in the event Petitioner has failed to file on or before that date, a reclamation bond or undertaking acceptable to the Division of Oil, Gas and Mining in the amount of \$100,000.00.

3. That all other terms and affirmative requirements of Cessation Order C85-1-2-1 shall remain in full force and effect until otherwise modified, amended or terminated pursuant to law.

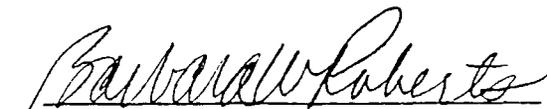
DATED this 17th day of September, 1985.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING



GREGORY P. WILLIAMS, Chairman

Approved as to Form:



Assistant Attorney General