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FILED
JAN 10 2012
SECRETARY, BOARD OF
OIL, GAS & MINING

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

REQUEST OF THOMAS F. MILLER FOR AGENCY ACTION REGARDING THE DIVISION OF OIL, GAS, AND MINING'S ACTIONS CONCERNING THE VIPONT MINE, LOCATED IN SECTION 6 OF TOWNSHIP 14 NORTH, RANGE 17 WEST, SECTION 31 OF TOWNSHIP 15 NORTH, RANGE 17 WEST, AND SECTION 12, TOWNSHIP 14 NORTH, RANGE 18 WEST, IN BOX ELDER COUNTY, UTAH.	**MOTION TO CONTINUE EVIDENTIARY HEARING PENDING DECISION ON MOTION TO DISMISS** **Docket No.: 2012-001** **Cause No.: S/003/ 035**

The Division of Oil, Gas, and Mining (Division) hereby moves the Board to continue the evidentiary hearing in the above matter now scheduled for January 25, 2012 until the next regularly scheduled hearing of the Board.

A continuance is appropriate to allow the Petitioner an opportunity to respond to the Division's Motion To Dismiss and to allow the Board the opportunity to consider the arguments and rule. The Petitioner is not required by the Board's rules to respond to the Motion to Dismiss prior to the hearing and should be afforded ample opportunity to do so.

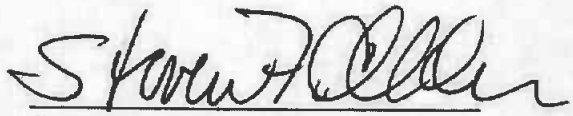
If the Board grants the Motion, the RAA will either be amended and the Division will file a Response to an Amended RAA that will more clearly identify the facts and issues of the matter will be dismissed and there will be no reason to prepare for a hearing.

The facts surrounding the allegations are potentially complicated. The allegations cover the actions of numerous entities over a long period of time and may require substantial number of exhibits and witnesses. The Division's Motion to Dismiss is intended to clarify the issues and make the hearing more meaningful and make better use of the Board's time. Without an amended RAA it will be difficult to prepare for a hearing since the Division must address a broad array of possibilities. Preparation prior to a decision would require an extensive amount of work that otherwise may be unnecessary.

In addition, the Division requests an opportunity to present oral argument on its Motion to Dismiss. The Division anticipates that the Petitioner may also want to respond to the Motion. The Division is aware of no allegations that the matter is of any urgency or that there is an reason for requiring that the Board to hold a hearing prior to opportunity to amend. The evidentiary hearing should be continued until the RAA is properly plead, and the Board determines if it has jurisdiction.

Respectfully submitted this 10th day of January, 2012.

UTAH DIVISION OF OIL, GAS, AND MINING



Steven F. Alder
Assistant Utah Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on December 11th, 2011, a true and correct copy of the foregoing Motion to Continue Evidentiary Hearing was sent to the following:

By hand delivery to:

Mike Johnson
Attorney for the Board of Oil, Gas and Mining
1594 West North Temple
Salt Lake City, Utah 84116

By Unites States Mail, First Class Postage to:

Thomas F. Miller
1116 North Frontage Road
Deer Lodge, Montana 59722