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RANCHERS EXPLORATION AND DEVELOPMENT CORPORATION

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July 11, 1980

RECEIVED
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DIVISION OF
OIL, GAS & MINING

Utah Board of Oil, Gas and Mining
Charles R. Henderson, Chairman
255 West First Street
Vernal, Utah 84078

Dear Mr. Henderson:

Ranchers Exploration and Development Corporation filed its Notice of Intention to Commence Mining Operations for the Escalante Silver Mine on July 9, 1980. Previously, Ranchers submitted and the Board approved a Notice of Intention for a Pilot Mining Program at the same property, that approval was made on January 24, 1980.

The purpose of this letter is to request the Board to make a speedy determination of the July 9 Notice. More specifically, we ask that the Board and the Division of Oil, Gas and Mining quickly reach a tentative decision with respect to approval of the Notice of Intention. For reasons explained below, quick action is absolutely essential to Ranchers so that it can meet federal requirements under the Resource Conservation and Recovery Act (RCRA) and its regulations. In the absence of quick action by the Board, Ranchers may suffer a lengthy delay, on the order of two years, through no fault of Ranchers. The consequences of such a delay can no doubt be surmised by the Board, but they include problems with financing, greatly increased costs, possible layoff of mine personnel, jeopardy to a substantial investment in the property, etc.

RCRA was passed in October of 1976 by the United States Congress. The Environmental Protection Agency (EPA) did not promulgate the final regulations for RCRA until May 19, 1980. Indeed, more regulations will be promulgated in the future, but not until late 1980 and following years. Generally, RCRA provides that operations in existence or under construction as of a particular date may continue to operate provided they meet certain notice requirements and comply with certain operating standards for protection of the environment. Operations not in existence or under construction as of such date must not operate until a RCRA permit has been approved, which the Environmental Protection Agency estimates will take up to two years. The "in-existence" or "under-construction" date is not yet known. The RCRA legislation provided for October 1 of 1976, but due to the four year delay in the EPA promulgating regulations,

Congress has determined to change that date. Currently, separate legislation has passed the House of Representatives and Senate to set a new date, however, the respective Houses of Congress have not agreed on the date. The matter is currently in the conference committee to work out the differences between the House and Senate bills, among which is the establishment of the "grandfather" date. Representatives of the American Mining Congress have informed Ranchers that it is their understanding that the conference committee has determined that October 30 (or perhaps October 1) 1980 has been agreed upon as the subject date. The conference committee is also to determine the definition of "under construction" or "in existence" for purposes of the new date. No action is presently scheduled by the conference committee to complete these tasks. Congress will adjourn in October, and presumably the compromise bill will be decided upon and passed at the last moment. AMC representatives inform us that they believe a requirement for meeting either definition will include, among other things, having in hand all state permits by the October date.

Because of the four year delay in the EPA promulgation of regulations and the great uncertainty in corrective federal legislation presently pending, Ranchers has been placed in a unique and troublesome situation. We believe that we must have all state permits in hand by October 30 (possibly October 1) in order to operate during pendency of our federal RCRA permit, or face the drastic consequences of not being able to operate while our federal permit is being considered. It is impossible to tell at the present time whether our Notice of Intention must be approved by the October date as a "state permit". Yet, due to the inherent delays before the Board can consider the Notice of Intention it appears unlikely that Ranchers will have an approved Notice in its hands by the October date, provided your ordinary scheduling of approval is carried out.

If the Board could give prompt tentative approval of our Notice of Intention and quickly publish notice of such tentative approval, Ranchers may well be able to avoid the dilemma unfairly placed upon it by the federal government. We realize your staff must first review the Notice and we have communicated to the staff the urgency of such review and the reasoning behind it. Mr. James W. Smith, Jr., the coordinator for mined land development, informs us that the staff review may well be completed by August 6th. However, the next Board meeting is not scheduled until August 20th, at which time tentative approval would presumably issue. Final approval, without protest, could occur no sooner than late September.

The August 20th date is a key factor. If the Board could possibly meet by telephone conference or by special meeting immediately after completion of staff review (about August 6th) and

then immediately issue tentative approval, the 30 day comment period could commence and the likelihood of Ranchers meeting the October date will be tremendously increased. Any such action by the Board would not, in our opinion, impair or hinder the orderly review and processing of our Notice, it would merely eliminate delays due to the timing of regular board meetings. Because the consequences to Ranchers may be so great, and the consequences to the Board so few, we urge the Board to consider and take such prompt tentative approval action.

As a further measure to speed the approval process, again without impairment of the Board's duty, we ask that when the Notice of tentative decision is published by the Board that such notice also state that if a hearing is required due to a factual written protest from adversely affected interests, that the date for any such hearing be set forth in the notice and that such date be prior to October 1, 1980. Board rules would not prohibit such a notice.

For your aid in considering our request, enclosed herewith is a copy of the January 24, 1980 order. That order states, among other things, that a dewatering study which documents the impacts of the proposed operation on the underground water supply of the Escalante Valley be submitted with our new Notice of Intention. Such report has been submitted. More importantly, Ranchers has firmly committed to take specific, fair and reasonable actions to mitigate or eliminate any problems with farmers' water supplies which may result from our operations. A copy of the relevant portion of the Notice of Intention is enclosed for your consideration, but in summary, Ranchers has committed to:

1. Provide alternate water.
2. Pay any increased pumping costs.
3. Rehabilitate, rework or refit wells.
4. Purchase, but not use, sufficient water rights to equal any losses that may occur due to evaporation of water pumped from the mine.
5. Provide engineering services for any general scheme to use canal waters.

We firmly believe that these points cover the legitimate concerns of the farmers in the valley. We have met with the Escalante Valley Water Users Association to explain our commitment and we will continue to work with that group to secure their understanding and approval of our commitment. Mr. Dee Hanson, the State Engineer has been advised of our commitment and his preliminary reaction was quite favorable. We are aware of no questions other than the water issue which may create opposition to our Notice of Intention and, again, we feel we have fairly and responsibly met that issue.

In closing, we welcome any suggestions from the Board that would help to achieve our goal of a speedy, yet responsible, review of our Notice. We sincerely request your consideration of our plight and its suggested remedy.

Thank you very much for your cooperation.

Very truly yours,

RANCHERS EXPLORATION AND
DEVELOPMENT CORPORATION

Herbert M. Campbell II
Vice President and Secretary

HMC/nlp
Encl.
cc: James W. Smith, Jr.
Samuel S. Arentz
Other Board Members