Steven F. Alder (#00033)
Assistant Utah Attorney General
Utah Division of Oil, Gas and Mining
1594 West North Temple St. #300
Salt Lake City, Utah 84116
Tel. 801 538-5348

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 DISMISS** **Docket No.: 2012-001** **Cause No.: S/003/ 035**

The Division of Oil, Gas, and Mining (Division) hereby files this Motion To Dismiss the above entitled Request for Agency Action (RAA) without prejudice or in the alternative to require the filing of an amended RAA that complies with the rules of the Board.

The Division asks that the RAA be dismissed on two general grounds. First, that the RAA for agency action does not meet the requirements for a Request as set forth in the Procedural Rules of the Board: it fails to state the relief requested; fails to include a statement of the legal authority and jurisdiction of the Board to hear the matter; and it fails to state with sufficient detail the facts and reasons in support of the claim. The

Division asks the Board to require the Petitioner to file an amended RAA that satisfies the rules.

In the alternative that the Board does not require the Petitioner to file an amended RAA or the Petitioner affirms that the RAA seeks an award of monetary damages, the Division asks that the RAA be dismissed for the reason that the Board does not have jurisdiction to grant the relief requested.

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 January 11th, 2012, a true and correct copy of the foregoing Motion to Dismiss 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