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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.	:	**STIPULATION TO WITHDRAW REQUEST FOR AGENCY ACTION** **Docket No.: 2012-001** **Cause No.: S/003/ 035**

The Division of Oil, Gas, and Mining (Division) through its attorney of record Steven F. Alder, Assistant Utah Attorney General; and Petitioner, Thomas F. Miller, through his counsel Mark Hilty, of HAMILTON, MICHAELSON & HILTY, LLP;

HEREBY Stipulate to withdraw the Request for Agency Action ("RAA") filed by Thomas F. Miller on November 22, 2011 upon the following grounds;

1. Mr. Miller has alleged that, by letter dated October 14, 2009 to Aurora Oil & Gas Company ("Aurora"), the Division required reclamation of the Vipont Mine in Box Elder County, Utah pursuant to Utah Administrative Code, Rule R647-3-113. 5 and the mine site was in fact reclaimed in May or June of 2010.

2. The concerns raised in the RAA relate to Mr. Miller's claims that he and/or his business entities suffered substantial damage as a consequence of the Vipont Mine reclamation. Because the reclamation has been completed, the RAA does not afford Mr. Miller or the Board the opportunity to prevent reclamation activities from occurring.

3. Mr. Miller may Petition the Board pursuant to Utah Administrative Code, Rule R641-111-100 for a declaratory ruling that 1) the approval of a Notice of Intention filed by Aurora's predecessor-in-interest Celebration Mining Company in 1995 was inconsistent with applicable statutes, rules, regulations or orders, and 2) the reclamation of the Vipont Mine in 2010 violated applicable statutes, rules, regulations or orders.

4. However, if the Board were to hear this matter and make the declarations described in the preceding paragraph, it remains beyond the jurisdiction of the Board to financially compensate Mr. Miller for his alleged losses. While Rules R641-111-200.220 and 230 authorize the Board to issue a nonbinding declaration and potentially initiate further administrative proceedings, jurisdictional limitations ultimately prohibit the Board from stopping reclamation of the Vipont Mine or compensating Mr. Miller for his loss.

5. In short, because reclamation of the Vipont Mine cannot be stopped by the Board, and because Mr. Miller's claims involve monetary damages the Board is not able to award, the parties agree that proceeding with the RAA is futile because it cannot provide Mr. Miller a meaningful remedy.

Respectfully submitted this 8th day of February, 2012.

UTAH DIVISION OF OIL, GAS, AND MINING

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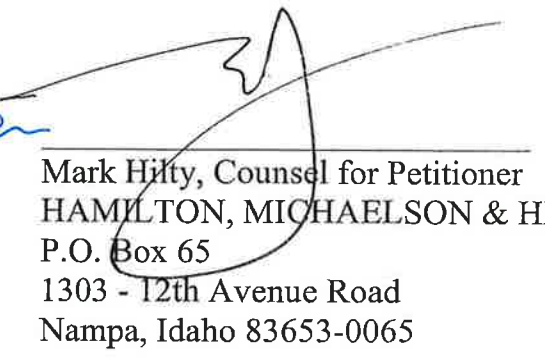
THOMAS F. MILLER



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