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January 25, 1991

Mr. Roger Shaffer, Administrator
Land Quality Division
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

RE: Application for Renewal
PSO No. 1 Mine
Permit No. 407-TFN2 4/197A
Ash Creek Mining Company (ACMC)
Sheridan County, Wyoming



Gentlemen:

This firm represents Reserve Coal Properties Company (RCPC), owner of surface and coal properties within and without the permit boundary of the above permit. The purpose of this letter is to indicate certain errors and deficiencies contained in the Application and supporting documentation which should be considered and revised prior to renewal of the permit.

The errors and deficiencies are found primarily in the Adjudication File and relate to the identification and description of mineral and surface ownership within and without the permit boundary and the maps and plats filed in support thereof. These errors are delineated in the attached Exhibit to this letter and are supported by a copy of the Patent and Mineral Deed conveying the minerals to Reserve Coal Properties Company.

A review of the DEQ documents extending back to 1977 reveals a rather curious history of circumstances which have allowed the PSO Mine permit to be extended for an open pit mine for a period of approximately 15 years without requiring reclamation. Apparently on the theory of "de minimis" mining [which in many years amounted to nothing], and for which we can find no authority, the Department has taken the position that this permit can be renewed ad infinitum. We question both the legality and the

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propriety of such an interpretation of the Rules and Regulations.
At the very least, it may have set a precedent which may come to
haunt the Department.

We would be most happy to discuss any questions you may
have concerning the information contained in this letter or the
attached Exhibits at any time.

Yours very truly,

BURGESS, DAVIS, CARMICHAEL & CANNON


Richard M. Davis, Jr.

RMD:kg

Enclosures

cc: District III - Sheridan
Rick Chancellor
S.P. Skeen

