



RICHARDSON OPERATING COMPANY

4601 DTC Blvd., Suite 470  
Denver, Colorado 80237 (303) 830-8000  
Fax (303) 830-8009

*Ta/JP -  
copy made  
for  
Coul/  
B??*

May 29, 2003

Received

JUN 03 2003

Energy, Minerals & Natural  
Resources Department  
Office of the Secretary

Mr. Evan Jones  
Vice President  
San Juan Coal Company  
300 West Arrington, Suite 200  
Farmington, New Mexico 87401

Re: Richardson v. San Juan Coal Company

Dear Mr. Jones:

While I thank you for your letter of May 21, 2003, I'm afraid your correspondence reveals just how little San Juan Coal Company's ("San Juan") position has changed with regard to Richardson Operating Company's ("Richardson") senior leasehold rights. In addition, I am deeply concerned that this latest letter constitutes little more than posturing by San Juan for the benefit of all those who received a copy, rather than a legitimate settlement overture to Richardson. The time has come for San Juan to dispense with these attempts at grandstanding and to decide whether it truly intends to resolve this dispute. Accordingly, this letter, which is sent reluctantly and only in self-defense, will constitute Richardson's last "public" rejoinder. Any and all further discussions by Richardson will take place only between the parties (and their counsel). If and when San Juan sincerely wants to discuss the resolution of this matter, I am readily available for a meeting. However, as I have informed you, I will not conduct any such discussions outside the presence of my attorney because I believe San Juan has given me ample reason to distrust its intentions. Questioning Richardson's desire to negotiate in good faith while a standing offer by Richardson remains on the table—and doing so in a gratuitously public manner—is only the latest in a long series of actions by San Juan which Richardson considers to be disingenuous.

Contrary to the impression you create for the unnecessarily extensive audience to your last letter, it was Richardson, not San Juan, who made the most recent settlement proposal in this matter. San Juan has yet to respond to that proposal, which was made almost a year ago, but you nevertheless question the "seriousness" of Richardson's desire to resolve this dispute. This inconsistency is symptomatic of a deeper issue between the parties; namely, San Juan's failure to apprehend that San Juan, not Richardson, has the burden of resolving this dispute on terms acceptable to Richardson. As we have reminded you numerous times, Richardson is not a

willing seller. To the contrary, Richardson would prefer to continue developing its senior interests without any further interference from San Juan.

Your letter also applies a similar double standard to Richardson's recent citizen's complaint to the federal Office of Surface Mining Reclamation and Enforcement. While characterizing Richardson's exercise of its legal rights as "cause for additional concern regarding the good faith possibilities of our negotiations," you fail to mention San Juan's recent appeal of the Oil Conservation Commission's infill spacing order. San Juan's district court appeal, which came after two successive rounds of commission appeals which San Juan lost, is only the latest in a long series of procedural machinations by San Juan intended to impede the development of senior leasehold interests by operators such as Richardson. Other such protests have included: 1) a challenge to Richardson's application for drilling permits ("APD"), which San Juan lost; 2) an appeal of the Farmington Field Office ("FFO") decision to grant the APDs, which San Juan lost; 3) an appeal of the State Director's decision affirming the FFO decision, which San Juan ultimately withdrew; 4) San Juan's challenge to Dugan Production Corporation's ("Dugan") application for APDs, which San Juan lost; 5) an appeal of the FFO decision to grant the APDs, which San Juan lost; 6) a request for a stay of the effectiveness of the FFO decision and the granting of any additional APDs in the area, which San Juan lost; 7) a request for a stay of the effectiveness of the State Director's decision denying the stay request, which was denied as moot due to the supervening State Director's decision which San Juan lost; and 9) an appeal of the State Director's decision affirming the FFO decision, which is currently pending.

This small mountain of procedural defeats represents the affirmation of Richardson's senior leasehold rights by the New Mexico Oil Conservation Division, the BLM Farmington Field Office, and the BLM New Mexico State Director. The BLM Field Solicitor has informed San Juan that "BLM has made the determination that gas should be produced in advance of coal mining. Any stay in the development of the gas development conflicts with that decision and increases the amount of gas that will be lost." This fact is confirmed by the recent Farmington Final Environmental Impact Statement, which states on p. 3-9 that the FFO "operates under a BLM mandate to produce coal gas prior to mining for coal," and on p. 3-12 that "FFO policy prioritizes extraction of CBM over mining of coal."

The Field Solicitor has also stated that it is unfortunate that San Juan entered into a coal lease with terms which expressly make the lease subject to prior existing rights of earlier-in-time gas lessees, "[b]ut San Juan's serious business problems do not rise to the level of legal rights." The Assistant Field Manager of the FFO has informed San Juan that any further approval of development and production is contingent on San Juan providing the BLM with documentation that a satisfactory agreement has been reached between San Juan and existing oil and gas operators such as Richardson, saying "[a]pproval is denied at this time for ANY mining in the Deep Lease Extension until ALL conflicts are resolved." Similarly, the BLM Deputy State Director has informed San Juan that "the BLM and San Juan alone cannot decide the reasonable value of the economically recoverable CBNG. Dugan and Richardson have to agree the payment is fair and equitable compensation."

According to the Deputy State Director, "[w]hat is obvious to the BLM is that the longer San Juan delays in eliminating the impediments to mining, the greater the economic leverage that

Dugan and Richardson hold over you and your mine." Unfortunately, San Juan has continued to ignore this sound advice, and the senior rights it has stubbornly refused to acknowledge have only grown more valuable over time. If San Juan continues to ignore Richardson's senior rights, it does so at its own peril. As production continues to increase, unnecessary legal bills continue to pile up, and, most importantly, the safety hazard from San Juan's activities continues to grow, Richardson will only become more aggressive about defending the safety of its personnel and the seniority of its legal rights.

Rather than merely acknowledging Richardson's presumptively senior rights in the first place and offering a price acceptable to Richardson, San Juan instead resorted to the years of fruitless obstructionism and legal maneuvering described above. Although such tactics have only resulted in the consistent affirmation of Richardson's senior rights, this affirmation has come at a significant and unnecessary cost to Richardson. Because these costs must necessarily be included in any legitimate settlement proposal by San Juan, it is entirely reasonable to require their immediate reimbursement as a much-needed gesture of San Juan's good faith in this dispute. San Juan's refusal to reimburse the unnecessary costs incurred to defend Richardson's presumptively senior right is tantamount to an ongoing refusal to recognize the seniority of the right itself.

At some point, San Juan will be forced to acknowledge the seniority of Richardson's leasehold rights, either by reimbursing Richardson's unnecessary costs and then addressing the value of these rights to Richardson, or by suspending any and all mining activities with the potential to interfere with those senior rights. If San Juan has finally concluded that it is in the best interest of both parties to get together and settle this dispute because Richardson's rights are unavoidably senior to San Juan's, Richardson looks forward to a resolution under the former alternative. If San Juan is not yet ready to acknowledge this fact, Richardson will continue to develop its senior interests and will take all steps necessary to protect its personnel and its superior rights.

If San Juan is interested in discussing a settlement under the terms of Richardson's outstanding good faith proposal (as adjusted for recent production results), please have your attorney contact my attorney for details regarding the unnecessary costs to date which need to be reimbursed. I sincerely hope we can resolve this dispute without the need for any further public spectacle.

Sincerely,

RICHARDSON OPERATING COMPANY



David Richardson

cc: David J. Mankiewicz, BLM Assistant Field Manager, Minerals  
Steve Henke, BLM Farmington Field Office  
Carston Goff, Deputy State Director BLM NM State Office  
Arthur Arguedas, Department of Interior Solicitor  
Lori Wrotenbery, Chairman, State of New Mexico Oil Conservation Commission  
Joanna Prukop, NM Energy, Minerals, and Natural Resources Department  
Patrick Lyons, Commissioner, NM State Land Office  
Willis L. Gainer, Director, NM Office of Surface Mining  
Jeffrey E. Sterba, President and CEO, PNM Resources  
Walter E. Stern, Counsel for San Juan Coal Company  
Peter A. Bjork, Esq.