

3-1-2010

Frank v. Bunker Hill Co. Augmentation Record Dckt. 34696

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs

Recommended Citation

"Frank v. Bunker Hill Co. Augmentation Record Dckt. 34696" (2010). *Idaho Supreme Court Records & Briefs*. 2582.
https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/2582

This Court Document is brought to you for free and open access by Digital Commons @ UIIdaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs by an authorized administrator of Digital Commons @ UIIdaho Law. For more information, please contact annablaine@uidaho.edu.

In the Supreme Court of the State of Idaho

PAUL E. FRANK,

Claimant-Appellant,

v.

THE BUNKER HILL COMPANY,
Employer/Self-Insured, BUNKER LIMITED
PARTNERSHIP, Self-Insured,

Defendants-Respondents.

)
)
) O R D E R

) Supreme Court Docket No. 34696-2007
) Industrial Commission No. 80-341382

A MOTION TO AUGMENT THE CLERK'S RECORD with attachment was filed by counsel for Respondents on January 28, 2010. Thereafter, a MOTION TO AUGMENT RECORD with attachments was filed by counsel for Appellant on February 1, 2010. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Respondents' MOTION TO AUGMENT THE CLERK'S RECORD be, and hereby is, GRANTED and the augmentation record shall include the document listed below, a file stamped copy of which accompanied this Motion:

1. Order on Remand Re: Determination of Proper Parties, file stamped January 14, 2010.

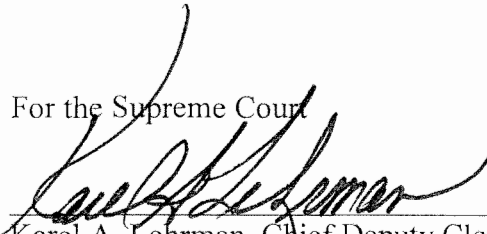
IT FURTHER IS ORDERED that Appellant's MOTION TO AUGMENT RECORD be, and hereby is, GRANTED and the augmentation record shall include the documents listed below, file stamped copies of which accompanied this Motion:

1. Affidavit of J. W. Kendrick on behalf of the Bunker Limited Partnership, which was included with other documents that were filed with the Industrial Commission on April 28, 2008;
2. Motion for Judicial Notice with attachments, file stamped December 26, 2008;
3. Order Granting Leave to Conduct Discovery, file stamped April 16, 2009; and
4. Affidavit of John J. Rose, Jr. with Submission of Documents, file stamped October 8, 2009.

DATED this 1st day of March 2010.

AUGMENTATION RECORD

For the Supreme Court


Karel A. Lehrman, Chief Deputy Clerk for
Stephen W. Kenyon, Clerk

cc: Counsel of Record

ORDER - Docket No. 34696-2007

William F. Boyd
 Attorney at Law
 601 Sherman Avenue, Suite 1
 Coeur d'Alene, ID 83814
 phone: 208-665-0666
 fax: 208-665-0864
 Idaho State Bar No. 1070

Attorney for Bunker Limited Partnership

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

PAUL E. FRANK,)	
	)	NO. IC 80-341382
Claimant)	
	)	NOTICE OF APPEARANCE OF
v.	)	BUNKER LIMITED
	)	PARTNERSHIP, MOTION FOR
	)	ORDER CLARIFYING PARTIES
THE BUNKER HILL COMPANY,)	
)	
Employer,)	
Defendant)	
_____)	

Comes now Bunker Limited Partnership, an Idaho limited partnership, by and through its attorney, William F. Boyd, and hereby gives notice of appearance in the above entitled matter and in addition hereby moves the Commission pursuant to Rule 3.E. of the Judicial Rules of Procedure for an order determining that Bunker Limited Partnership is not and should not be named as a party to the above entitled proceedings.

This motion is based upon the papers attached hereto listed as: (1) Supreme Court order remanding appeal back to

William F. Boyd
 Attorney at Law
 601 Sherman Avenue, Suite 1
 Coeur d'Alene, ID 83814
 phone: 208-665-0666
 fax: 208-665-0864
 Idaho State Bar No. 1070

Attorney for Bunker Limited Partnership

IN THE SUPREME COURT OF THE STATE OF IDAHO

PAUL F. FRANK,)	
	)	NO. 34696
Claimant-Appellant)	
	)	AFFIDAVIT OF
v.	)	J. W. KENDRICK
	)	ON BEHALF OF BUNKER
	)	LIMITED PARTNERSHIP
THE BUNKER HILL COMPANY,)	
Self-insured Employer,)	
)	
Defendant-Respondents.)	
_____)	

J. W. Kendrick, being duly sworn on his oath, deposes and says:

1. I am President of BH Properties, Inc., the general partner of Bunker Limited Partnership, an Idaho limited partnership. I am making this affidavit for Bunker Limited Partnership for the purpose of responding to that certain letter from the Deputy Clerk dated April 8, 2008, addressed to "Bunker Hill Company, P.O. Box 53, Cataldo, Idaho". Bunker Limited Partnership is not The Bunker Hill Company, but Bunker Limited Partnership's address is P.O.

William F. Boyd
Attorney at Law
601 Sherman Avenue, Suite 1
Coeur d'Alene, ID 83814
phone: 208-665-0666
fax: 208-665-0864
Idaho State Bar No. 1070

Attorney for Bunker Limited Partnership

IN THE SUPREME COURT OF THE STATE OF IDAHO

PAUL E. FRANK,)	
	)	NO. 34696
Claimant-Appellant)	
	)	AFFIDAVIT OF
v.	)	J. W. KENDRICK
	)	ON BEHALF OF BUNKER
	)	LIMITED PARTNERSHIP
THE BUNKER HILL COMPANY,)	
Self-insured Employer,)	
)	
Defendant-Respondents.)	
_____)	

J. W. Kendrick, being duly sworn on his oath, deposes and says:

1. I am President of BH Properties, Inc., the general partner of Bunker Limited Partnership, an Idaho limited partnership. I am making this affidavit for Bunker Limited Partnership for the purpose of responding to that certain letter from the Deputy Clerk dated April 8, 2008, addressed to "Bunker Hill Company, P.O. Box 53, Cataldo, Idaho". Bunker Limited Partnership is not The Bunker Hill Company, but Bunker Limited Partnership's address is P.O.

Box 53, Cataldo. I will explain further, below, who Bunker Limited Partnership is, and how confusion may result between the entities Bunker Limited Partnership and The Bunker Hill Company. The facts stated below I know of my own knowledge, unless otherwise indicated.

2. The Deputy Clerk's letter of April 8, 2008 is attached hereto as Exhibit 1. Her letter caused me to consider making the explanation set forth in this affidavit.

3. Paul E. Frank was injured in a work-related accident that occurred on November 12, 1980. When Mr. Frank was injured, he was an employee of /The Bunker Hill Company, a Delaware corporation authorized to do business in the State of Idaho. /

4. The Bunker Hill Company was a corporation that did business in and near Kellogg, Idaho since the early 1900s. During the year 1968, all of the issued and outstanding shares of The Bunker Hill Company were acquired by Gulf Resources and Chemical Corporation in a hostile takeover. Thereafter, The Bunker Hill Company became a wholly owned subsidiary of Gulf Resources and Chemical Corporation. The parent's main office was in Houston, Texas.

5. The Bunker Hill Company shut down its Kellogg operations for economic reasons in the late summer and fall of 1981.

6. Effective November 1, 1982, Bunker Limited Partnership as the buyer, and The Bunker Hill Company and Gulf Resources and Chemical Corporation as sellers, purchased substantially all of the assets of The Bunker Hill Company. The transaction was documented with a written contract; an Asset Purchase Agreement dated November 1, 1982. One of the assets purchased was the name, "The Bunker Hill Company".

7. Part of the consideration to the sellers in the Asset Purchase Agreement was the assumption of certain liabilities, including workmen's compensation claims made by employees of The Bunker Hill Company prior to November 1, 1982. However, such assumption of liabilities was limited by terms of the Asset Purchase Agreement to certain dollar amounts. Furthermore, the matter of assumption is complicated by the subsequent bankruptcy of Gulf Resources and Chemical Corporation, The Bunker Hill Company, and Bunker Limited Partnership, explained below.

8. Because of the contractual assumption of certain liabilities and Bunker Limited Partnership's contractual right to defend them, Bunker Limited Partnership's

management took a role in the defense of Paul Frank's workmen's compensation claim. This involvement may have lead to confusion in the case about who the parties are and who the employer was. I believe that from the outset of Mr. Frank's claim, the parties were Paul Frank as claimant and The Bunker Hill Company as employer, and I do not think that alignment of parties has ever changed, so far as I know.

9. Confusion about the company names may be due to a provision in the Asset Purchase Agreement. As mentioned above it was agreed that the name "The Bunker Hill Company" would be sold to Bunker Limited Partnership, as a part of the purchase and sale transaction of November 1, 1982. Therefore, the name of The Bunker Hill Company was changed to "Pintlar Corporation". It was Pintlar Corporation (The Bunker Hill Company with a new name) that continued to manage certain assets and liabilities that were not part of the assets and liabilities sold to Bunker Limited Partnership on November 1, 1982.

10. I am aware that Gulf Resources and Chemical Corporation and Pintlar Corporation filed petitions in bankruptcy during the 1990s, as mentioned in paragraph 7 above. I am not aware of details that may be relevant to the above entitled Frank case.

11. During June, 1991 Bunker Limited Partnership filed a petition in bankruptcy in the Eastern District of Washington. A Plan Of Reorganization was approved by the court. Gulf Resources and Chemical Corporation and Pintlar Corporation made certain bankruptcy claims related to the Asset Purchase Agreement of November 1, 1982. Those claims were dealt with in the Plan Of Reorganization of Bunker Limited Partnership, and resolved.

12. The Plan Of Reorganization of Bunker Limited Partnership establishes a \$40,000 "reversionary trust", with the income from the corpus of the trust available to fund medical claims made by workmen's compensation claimants who were employees of The Bunker Hill Company. The corpus reverts to the U.S. Government when ongoing medical payments are no longer required.

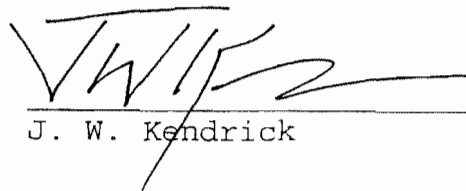
13. To the best of my knowledge, Paul Frank did not present a claim in the Bunker Limited Partnership bankruptcy proceeding, although Paul Frank was aware of the proceeding. This makes common sense to me because it is my understanding that, as a factual matter, it is The Bunker Hill Company that is liable to Mr. Frank, if any liability there be, not Bunker Limited Partnership. And, it would be The Bunker Hill Company (name changed to Pintlar Corporation), that might pursue Bunker Limited Partnership

under the contract (Asset Purchase Agreement) to enforce assumption of liabilities, if any assumption is due under all of the terms of the Asset Purchase Agreement of November 1, 1982. However, I believe the matter of The Bunker Hill Company's (Pintlar Corporation) claims against Bunker Limited Partnership was dealt with in the bankruptcy proceedings of Bunker Limited Partnership.

14. In conclusion, and more to the point, my understanding of the facts is that Paul E. Frank has not named Bunker Limited Partnership of P. O. Box 53, Cataldo, as a defendant in his workmen's compensation claim that is the subject of the above entitled case. Mr. Frank can, of course, speak to this point through his counsel.

Further affiant sayeth not.

Dated this 28th day of April, 2008.

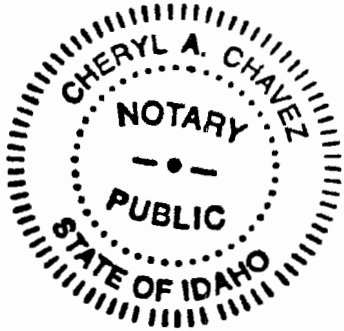


J. W. Kendrick

State of Idaho)
) ss.
County of Kootenai)

On this 28th day of April, 2008, before me, the undersigned, a Notary Public for the State of Idaho, personally appeared J. W. KENDRICK, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same and swore to me that the facts stated are true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Cheryl A. Chavez
Notary Public in and for
the State of Idaho
Residing at Coeur d'Alene, Idaho
Commission Expires: Aug. 24, 2010

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing AFFIDAVIT OF J. W. KENDRICK ON BEHALF OF BUNKER LIMITED PARTNERSHIP to be served upon the following named person this 29th day of April, 2008 by placing a true and correct copy of it in the U.S. Mail, first-class postage prepaid, addressed as follows:

John J. Rose, Jr., P.C.
708 West Cameron Avenue
Kellogg, ID 83837

William F. Boyd
William F. Boyd

LAW OFFICE OF
JOHN J. ROSE, JR., PC
708 W. Cameron Avenue
Kellogg, Idaho 83837
Phone: (208) 783-3501
ISB 2094

Attorney for Claimant

RECEIVED
INDUSTRIAL COMMISSION
DEC 26 11:14

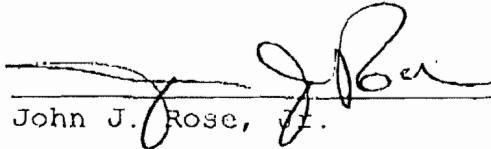
BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

PAUL E. FRANK,	]	No. IC 80-341382
]	
Plaintiff,	]	MOTION FOR JUDICIAL NOTICE
vs.]	
]	
THE BUNKER HILL COMPANY,]	
]	
Defendant.]	

Comes now the claimant and moves the Commission to take judicial notice of the documents attached hereto. Said documents are copies from the Commission's records and files and provided to the undersigned by the Commission. Said documents are in the identical condition as when they were received from the Commission.

This motion is made pursuant to I.R.E. 201.

DATED this 24 day of December 2008.



John J. Rose, Jr.

LAW OFFICE OF
JOHN J. ROSE, JR., PC
708 W. Cameron Avenue
Kellogg, Idaho 83837
Phone: (208) 783-3501
ISB 2094

Attorney for Claimant

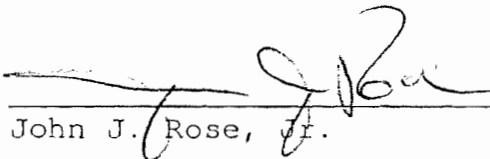
BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

PAUL E. FRANK,	]	No. IC 80-341382
]	
Plaintiff,	]	MOTION FOR JUDICIAL NOTICE
vs.]	
]	
THE BUNKER HILL COMPANY,]	
]	
Defendant.]	

Comes now the claimant and moves the Commission to take judicial notice of the documents attached hereto. Said documents are copies from the Commission's records and files and provided to the undersigned by the Commission. Said documents are in the identical condition as when they were received from the Commission.

This motion is made pursuant to I.R.E. 201.

DATED this 24 day of December 2008.



John J. Rose, Jr.

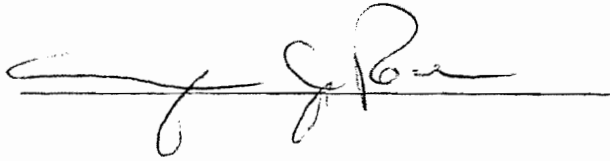
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following this 24 day of December 2008.

Idaho Industrial Commission

William F. Boyd
Ramsden & Lyons, LLP
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

U.S. MAIL
 HAND DELIVERED
 OVERNIGHT MAIL
 FACSIMILE

A handwritten signature in black ink, appearing to read "W. F. Boyd", is written over a horizontal line.

BUNKER LIMITED PARTNERSHIP
XX
XX
POST OFFICE BOX 29 o KELLOGG, IDAHO 83837 o (208) 784-1261

53 AUG 29 9:26

8

INDUSTRIAL COMMISSION
RECEIVED



Frank B. Bright

August 25, 1983

Mr. Will Defenbach, Chairman
Mr. Gerald Geddes
Mr. Larry Sirhall
Industrial Commission
State of Idaho
Statehouse Mail
Boise, Idaho 83720

Gentlemen:

Attached is the application for Bunker Limited Partnership to become self insured for the purposes of Worker's Compensation in the State of Idaho. The following summary will provide you with supplemental data necessary to completely evaluate this application.

BACKGROUND INFORMATION

The Bunker Hill Company was a large mining and smelting company with a 1980 net income of \$20 million and sales of \$327 million. Bunker Hill employed approximately 2,200 employees and was considered a major economic factor in the north Idaho area. Bunker Hill's parent company, Gulf Resources, announced the decision to close the Idaho facilities in August of 1981 due to declining metal prices and high operating costs.

On November 1, 1982, Bunker Limited Partnership, (a group of prominent Idaho investors: J. R. Simplot of Boise, H. F. Magnuson of Wallace, D. B. Hagadone of Coeur d' Alene, and J. W. Kendrick of Kellogg), pur-
chased certain assets and assumed specific liabilities of the Bunker Hill
Company. These assets consisted primarily of the Bunker Hill Mine, Crescent
Mine, Zinc Plant, Lead Smelter, timberlands and a local ski resort.

With the exception of the ski resort, all operating facilities have been closed or in the process of closing since August 1, 1981. On October 29, 1982, all remaining Bunker Hill employees were terminated. On November 1, 1982, approximately 35 former Bunker Hill employees were hired by Bunker Limited Partnership to continue with the administrative close-down phase and provide for the necessary care and maintenance of the facilities.

Bunker Hill was self insured for purposes of Worker's Compensation, however, a \$250,000 per employee "stop loss" reinsurance was provided by a reinsurer. Bunker Hill self administered Worker's Compensation insurance with assistance from the Brown, Peacock, Keane and Boyd law firm of Kellogg, Idaho.

ASSUMPTION OF WORKER'S COMPENSATION LIABILITY

Bunker Limited Partnership assumed certain liabilities from the Bunker Hill Company. One of the liabilities was Worker's Compensation as it related to former Bunker Hill employees in terms of settled, open and potentially open claims. Since November 1, 1982, Worker's Compensation has been administered and funded by Bunker Limited Partnership on a self insured and self administered basis in a responsible manner. The Brown law firm assists Bunker Limited Partnership in the administration and settlement of Worker's Compensation claims. Bunker Limited Partnership will continue to self administer and self insure these liabilities.

MANAGEMENT CONTINUITY

The key managers of the Bunker Limited Partnership, with the exception of the Vice President of Human Resources, have remained intact and are all former Bunker Hill employees. It is suggested that the philosophy and methodology of dealing with Worker's Compensation issues by Bunker Limited Partnership personnel will remain essentially unchanged. Management continuity represents a strong factor for approving this application. In addition, the Brown law firm will continue to represent Bunker Limited Partnership in Worker's Compensation issues.

OWNERSHIP INTEGRITY

It is recognized that the Industrial Commission evaluates the professional integrity of each organization that submits an application for self insurance. The issue of professional integrity and organizational responsibility of the owners of Bunker Limited Partnership is clearly one of the key factors supporting this application. All of the owners are long time Idaho businessmen and have clearly demonstrated their professionalism, integrity, commitment to the people of Idaho and to the employees of their respective businesses.

FUTURE PLANS

The Partnership, in response to a favorable silver market, is aggressively pursuing plans to reopen it's Crescent Mine. It is anticipated that with the reopening of these facilities, the Partnership annual payroll will exceed \$4 million.

Plans to open the Bunker Hill Mine and the metallurgical facilities are incomplete at this time and therefore cannot be meaningfully discussed. It is the intent of the owners to return it's assets to production as soon as economically viable.

It is recognized that a legal change in ownership of the Bunker Hill Company occurred on November 1, 1982. However, for the purposes of Worker's Compensation, maximum consideration should be given to the long standing existence of the Bunker Hill Company and the sincere commitment of the owners to return the Bunker Hill facilities to operation. Clearly, the owners did not purchase the Bunker Hill assets with the intention of not operating those facilities. It is more than reasonable to believe that the Bunker Hill facilities represent a long term financial opportunity for it's owners. This should suggest to the Commission that those facilities will continue to exist for many years in the future. It is requested that in evaluating the payroll for the last three years the Commission consider the payroll of the Bunker Hill Company, Bunker Limited Partnership during the close down year, as well as Bunker Limited Partnership's projected start up plans.

The following is a summary of total payroll since 1978:

<u>Year</u>	<u>Total Payroll</u>
1978	\$33,000,000
1979	\$39,000,000
1980	\$46,000,000
1981	\$50,000,000
1982	\$ 9,000,000
1983	\$ 2,500,000
1984	\$ 5,000,000 (estimate)

FINANCIAL STATEMENT

Bunker Limited Partnership's financial position is very strong. In addition to the asset/liability summary, Bunker Limited Partnership has negotiated an \$8 million line of credit from the First Security Bank of Idaho, N. A.

<u>Total Assets</u>	\$64,038,024
(includes \$13 million in metals inventory and \$17 million in timber and timberland)	
<u>Total Liabilities</u>	\$27,148,066

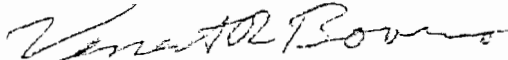
COST EFFECTIVENESS OF SELF INSURANCE

Because Bunker Hill's Worker's Compensation actual dollar loss was below the manual insurance premium rate, there exists a significant financial advantage for Bunker Limited Partnership to be self insured. These savings are meaningful and weigh heavily in Bunker Limited Partnership's plans, not only to open the Crescent Mine, but to aggressively and quickly pursue opening it's other facilities.

In summary, Bunker Limited Partnership requests the Idaho Industrial Commission's favorable and timely response to this application for self insurance.

Thank you.

Sincerely,



Vincent R. Bovino, Vice President
Human Resources

VRB:jd

Enclosure

BUNKER LIMITED PARTNERSHIP

P.O. Box 29
Kellogg, Idaho 83837

NOV 7 9:15

INDUSTRIAL COMMISSION
RECEIVED

[Handwritten initials]

November 2, 1984

Mr. Will Defenbach, Chairman
Mr. Gerald Geddes
Mr. Larry Sirhall
Industrial Commission
State of Idaho
Statehouse Mail
Boise, Idaho 83720

Gentlemen:

On October 7, 1983, Bunker Limited Partnership and the Idaho State Industrial Commission entered into a Declaration Of Trust agreement. This agreement required Bunker Limited to establish a \$75,000 trust for the purposes of paying Worker's Compensation claims that were not paid by Bunker Limited as a self insured employer.

In accordance with the terms of paragraph 7 of the agreement,

"At the end of said one-year period, or if permission is given by the Idaho Industrial Commission, this trust shall terminate and the corpus, or any portion remaining, shall revert to Bunker Limited as its property",

we will be withdrawing the \$75,000 from the trust account.

If the Commission has any concerns about the withdrawal, or would like to discuss this action, please call me at your convenience.

I want to personally thank you for approving our application for self insurance. I believe we have demonstrated our financial and managerial worthiness as a self insured employer.

Sincerely,
B. H. Properties, Inc.

Vincent R. Bovino
Vincent R. Bovino
Vice President - Human Resources

VRB:jd

State of Idaho
Industrial Commission

M E M O R A N D U M

DATE: January 23, 1991
TO: Commissioners
FROM: Fiscal - Janet Justice
SUBJECT: Chapter 11 Bankruptcy-Bunker Hill Company USA, Inc.

Prior to corresponding with the representatives of The Bunker Hill Company, Bunker Hill Limited Partnership, and carriers holding the old cancelled self-insurer's bonds, I called Mr. Frank Breidt who has been submitting the IC Form 36 Outstanding Awards Reports for both the old Bunker Hill Company and Bunker Hill Limited Partnership.

Mr. Breidt states that the worker's compensation liabilities of Bunker Hill Limited Partnership and the old Bunker Hill Company that are residual from their respective periods of self-insurance are not in jeopardy.

The company that filed bankruptcy is a separate entity. The company that actually filed bankruptcy is Bunker Hill Company USA, Inc.

Mr. Breidt indicated that he will direct a letter to the Industrial Commission clarifying what is going on to reassure this agency that there is no problem.

**BUNKER
LIMITED
PARTNERSHIP**

135 E. Cameron Avenue, Kellogg, Idaho 83837-2353

(208) 783-1200
FAX: (208) 783-2301

RECEIVED

JUL 29 1999

Industrial Commission
Boise, Idaho

July 27, 1999

Ms. Mary Quarles
Financial Specialist
IDAHO INDUSTRIAL COMMISSION
P. O. Box 83720
Boise, ID 83720-0041

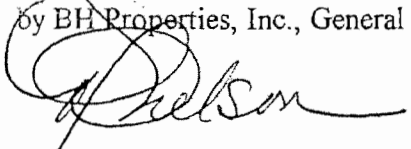
Re: The Bunker Hill Company
Self-Insurance Additional Security Requirement Request

Dear Ms. Quarles:

Bunker Limited Partnership is unable to comply with your request for additional security in the amount of \$103,251.20 on behalf of The Bunker Hill Company. Bunker Limited Partnership's responsibility for Bunker Hill Company worker's compensation claims is limited to certain established claims as covered in Bunker Limited's Plan of Reorganization approved by the U.S. Bankruptcy Court on July 13, 1992.

Very truly yours,

BUNKER LIMITED PARTNERSHIP
by BH Properties, Inc., General Partner



Norma J. Nelson
Administrative Assistant

Bunker 770,995 *has*
820,689. (36)

Partnership 300,000
231,142 *OK*

Needs
870,689.
add. = 99,694

State of Idaho



Treasury Department

I, MARJORIE RUTH MOON Treasurer of the State of Idaho.

do hereby certify that the BUNKER LIMITED PARTNERSHIP

of Kellogg, Idaho 83837 withdrew had a deposit of _____

Three hundred thousand and no/100 (\$ 300,000.00) Dollars on

file in this office on July 16, 1985 as follows:

WITHDREW:

7-16-85 1 Surety Bond #81 S 25659 BCA
Issued 10-10-83 Indefinite Term
\$300,000.00

ON 1-7-03, I gave a copy of these pages to Jessica Borup of Givens Pursley LLP. This firm is representing Paul Frank 80-341382.

JK
1-7-03

Given under my hand and official seal this 16th day of July, 1985

By *Marjorie Ruth Moon*
State Treasurer

Deputy

To be attached to and form a part of Bond No. 2617802 - Self-Insurer's Compensation Bond
executed by THE BUNKER HILL COMPANY, as
Principal and by SAFECO INSURANCE COMPANY OF AMERICA as Surety,
in favor of STATE OF IDAHO
and effective as of APRIL 15, 1976

In consideration of the mutual agreements herein contained the Principal and the Surety hereby consent to changing
the amount of the bond liability

From: THREE HUNDRED FIFTY THOUSAND AND NO/100 (\$350,000.00) DOLLARS

To: FOUR HUNDRED TWELVE THOUSAND NINE HUNDRED AND NO/100 (\$412,900.00) DOLLARS

Nothing herein contained shall vary, alter or extend any provision or condition of this bond except as herein expressly
stated. This rider is effective on the 13th day of May 1980.
Signed and sealed this 13th day of May 1980.

THE BUNKER HILL COMPANY Principal

By [Signature] Title

SAFECO INSURANCE COMPANY OF AMERICA Surety

Accepted: By Rebecca S. Grimes Attorney-in-Fact
Obligee Rebecca S. Grimes

By _____ Title
COUNTERSIGNED
BY Stan L. Stricker
Idaho Resident Agent



CANCELLATION NOT

THE AETNA CASUALTY AND SURETY COMPANY
THE STANDARD FIRE INSURANCE COMPANY
Hartford, Connecticut 06115

Office at 2201 6th Avenue
Seattle, WA 98121

Date March 14, 19 85

State of Idaho
Industrial Commission
317 Main
Boise, ID 83720

Bunker Limited Partnership, et al
P. O. Box 29
Kellogg, ID 83837

You are hereby notified that this Company elects to cancel: **Self-Insurer's Bond**
 a) Individual Bond No. _____ Original Effective Date: 10/10/83
covering _____
(Name & Address)

b) Bond or Policy No. 81 S 81025659 BCA
 c) Coverage under Bond or Policy No. _____
insofar as the acts of _____ are concerned.
 d) Insuring Agreement(s) _____ of Policy No. _____

This cancellation is to take effect on the 15th day of May, 19 85
in accordance with the terms of said Bond or Policy.

Accepted By:
Industrial Commission
M. Edinger

THE AETNA CASUALTY AND SURETY COMPANY
 THE STANDARD FIRE INSURANCE COMPANY
BY Lisa Lindsay
Lisa Lindsay

(B) That as between the Employee and the Surety, notice to or knowledge of the occurrence of injury, on the part of the employer shall be deemed notice to or knowledge, as the case may be on the part of the Surety; that the jurisdiction of the Surety, and the Surety shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workmen's Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and his discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained by an employee of the Principal, covered under the Workmen's Compensation Law aforesaid.

(C) That upon request of the Industrial Commission of Idaho it will make such changes in this form of bond by endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem requisite to bring this bond into conformity with its rulings as to the form of surety bond required of employers under Title 72, Chapters 1 to 8, both inclusive I.C., known as the Workmen's Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the execution hereof, and will continue in full force and effect until terminated in either of the following two manners: This bond may be canceled by the Surety by filing 60 days written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be canceled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

Any liability or obligation assumed hereunder by the surety corporation upon the execution of this bond and thereafter up to any cancellation of this bond shall remain the liability and obligation of said surety, notwithstanding such cancellation, according to the terms and conditions hereof.

IN TESTIMONY WHEREOF, the said Principal and the said Surety have caused these presents to be executed in due form this 10th day of October, 1983.

BUNKER LIMITED PARTNERSHIP

Principal

By:

W. Kendrick, Pres.

By:

BH Properties, Inc. - Gen. Partner

THE AIGNA CASUALTY AND SURETY COMPANY

Surety

By:

Diana M. Gertlar

Diana M. Gertlar, Attorney-in-Fact

Countersigned

By:

Walter M. Goodson

Resident State Agent



THE AETNA CASUALTY AND SURETY COMPANY
Hartford, Connecticut 06115

POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT

KNOW ALL MEN BY THESE PRESENTS, THAT THE AETNA CASUALTY AND SURETY COMPANY, a corporation duly organized under the laws of the State of Connecticut, and having its principal office in the City of Hartford, County of Hartford, State of Connecticut, hath made, constituted and appointed, and done by these presents make, constitute and appoint **John C. Focht, James E. May, Diane H. Gertlar or Jacquelyn A. Montoya - -**

of **Spokane, Washington**, its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, or, if the following line be filled in, within the area there designated the following Instrumental:
by his/her sole signature and not any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any and all consents incidents thereto

and to bind THE AETNA CASUALTY AND SURETY COMPANY, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of THE AETNA CASUALTY AND SURETY COMPANY, and of the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This appointment is made under and by authority of the following Standing Resolutions of said Company which Resolutions are now in full force and effect:

VOTED: That each of the following officers: Chairman, Vice Chairman, President, Any Executive Vice President, Any Senior Vice President, Any Vice President, Any Assistant Vice President, Any Secretary, Any Assistant Secretary, may from time to time appoint Resident Vice Presidents, Resident Assistant Secretaries, Attorneys-in-Fact, and Agents to act for and on behalf of the Company and may give any such appointee such authority as his certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors may at any time remove any such appointee and revoke the power and authority given him.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the Chairman, the Vice Chairman, the President, an Executive Vice President, a Senior Vice President, a Vice President, an Assistant Vice President or by a Resident Vice President, pursuant to the power prescribed in the certificate of authority of such Resident Vice President, and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary or by a Resident Assistant Secretary, pursuant to the power prescribed in the certificate of authority of such Resident Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact pursuant to the power prescribed in his or their certificate or certificates of authority.

This Power of Attorney and Certificate of Authority is signed and sealed by facsimile under and by authority of the following Standing Resolution voted by the Board of Directors of THE AETNA CASUALTY AND SURETY COMPANY which Resolution is now in full force and effect:

VOTED: That the signature of each of the following officers: Chairman, Vice Chairman, President, Any Executive Vice President, Any Senior Vice President, Any Vice President, Any Assistant Vice President, Any Secretary, Any Assistant Secretary, and the seal of the Company may be effected by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, THE AETNA CASUALTY AND SURETY COMPANY has caused this instrument to be signed by its Assistant Vice President, **R. T. Rippe**, and its corporate seal to be hereto affixed this **6th** day of **April**, 19 **83**

State of Connecticut }
County of Hartford } ss. Hartford



THE AETNA CASUALTY AND SURETY COMPANY
By R. T. Rippe
R. T. Rippe, Assistant Vice President

On this **6th** day of **April**, 19 **83**, before me personally came **R. T. RIPPE**, Assistant Vice President of THE AETNA CASUALTY AND SURETY COMPANY, the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; and that he/she executed the said instrument on behalf of the corporation by authority of his/her office under the Standing Resolutions thereof.



Johanna M. Degnan
My commission expires March 31, 19 **84** Notary Public
Johanna M. Degnan

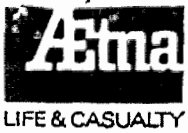
CERTIFICATE

I, the undersigned, **SECRETARY** of THE AETNA CASUALTY AND SURETY COMPANY, a stock corporation of the State of Connecticut, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney and Certificate of Authority remains in full force and has not been revoked; and furthermore, that the Standing Resolutions of the Board of Directors, as set forth in the Certificate of Authority, are now in force.

Signed and Sealed at the Home Office of the Company, in the City of Hartford, State of Connecticut, October **3rd** day of **October**, 19 **83**



Vincent A. Walsh
Vincent A. Walsh, Secretary



SURETY BOND RIDER

BOND NO. 81 S 25659BCA

IT IS HEREBY UNDERSTOOD, AGREED, AND ACCEPTED THAT THE NAME OF THE PRINCIPAL, "BUNKER LIMITED PARTNERSHIP, A CORPORATION OF THE STATE OF IDAHO....." IS CHANGED TO READ "BUNKER LIMITED PARTNERSHIP, A LIMITED PARTNERSHIP OF THE STATE OF IDAHO.....".

IN TESTIMONY WHEREOF, THE SAID PRINCIPAL AND THE SAID SURETY HAVE CAUSED THIS RIDER TO BE EXECUTED IN DUE FORM THIS 10TH DAY OF OCTOBER, 1983.

BUNKER LIMITED PARTNERSHIP
PRINCIPAL

BY: *[Signature]*

COUNTERSIGNED

BY: *[Signature]*
IDAHO RESIDENT AGENT

THE AETNA CASUALTY & SURETY COMPANY
SURETY

BY: *[Signature]*
WALTER M. GOODSSEN,
ATTORNEY IN FACT

SEABOARD SURETY COMPANY

211 NORTH ERVAY BUILDING
DALLAS, TEXAS 75201
AREA CODE 214
747-1875

T. V. WHIFFLE
SOUTHWESTERN MANAGER

F. C. MCINTOSH
ASSISTANT MANAGER

February 13, 1976

RECEIVED
FEB 17 1976
INDUSTRIAL COMMISSION

REGISTERED MAIL

State of Idaho
Industrial Commission
317 Main Street
Boise, Idaho 83702

Re: Our Bond #752780
THE BUNKER HILL CO.
Self-Insurer Compensation Bond
Effective 11-6-72

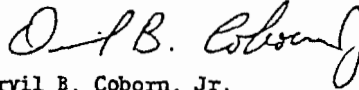
Gentlemen:

We, the Seaboard Surety Company as Surety on the above captioned bond, hereby serve notice of our intent to terminate our liability under this bond effective sixty (60) days from your receipt of this letter.

If you have any questions, please do not hesitate to contact the agent for the above captioned principal.

Thank you very much.

Sincerely,



Orvil B. Coborn, Jr.

OBC:tp

cc: Mr. William J. Gombocz
Seaboard Surety Company
90 William Street
New York, New York 10038

cc: Mr. Wallace V. Womack
Rathmell and Company
2701 Louisiana
Houston, Texas 77006

RECEIVED
APR 15 1976
STATE TREASURER

SEABOARD SURETY COMPANY

HOME OFFICE: NEW YORK, N. Y.

RECEIVED

SELF-INSURER'S COMPENSATION BOND

NOV 3 '72

KNOW ALL MEN BY THESE PRESENTS, that THE BUNKER HILL COMPANY, a Corporation of the State of Delaware, hereinafter called the Principal as Principal, and the SEABOARD SURETY COMPANY, a surety corporation authorized to transact a surety business in the State of Idaho, as Surety, are held and firmly bound unto the State of Idaho, for the use and benefit of all those employees of the Principal to whom or to the dependents of whom the Principal may, during the life of this bond, become liable for benefits under the Idaho Workmen's Compensation Law, as hereinafter more fully referred to, in the sum equal to and limited by the sum or sums that may become due and/or payable by said Principal to said employees under the terms, provisions and limitations of said Workmen's Compensation Law, and in accordance with the terms, agreements, conditions and limitations of this obligation not exceeding, however, the sum of FOUR HUNDRED FIFTY THOUSAND AND NO/100THS (\$450,000.00) DOLLARS, for the payment of which, well and truly be made, the Principal well and truly binds itself, its successors and assigns, and the Surety binds itself, its successors and assigns, jointly and severally, well and truly by these presents.

WHEREAS, in accordance with the provisions of Title 72, Chapters 1 to 8, both inclusive I. C., known as the Workmen's Compensation Law and all amendments thereto, and Principal has elected to secure compensation to its employees by depositing and maintaining with the Industrial Commission of Idaho a surety bond issued and executed by the Surety herein named, which surety is duly qualified to transact such business in the State of Idaho subject to the approval of the Industrial Commission of the State of Idaho;

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay compensation according to the terms, provisions and limitations of Title 72, Chapter 1 to 8 both inclusive I. C., known as the Workmen's Compensation Law and all amendments thereto to its injured employees or the dependents of its killed employees contemplated by the terms of and covered under the said law, and shall furnish medical, surgical, nursing and the hospital services and attention and funeral expenses as provided for in said law (all of which shall be understood to be included in the term "compensation" as hereinafter used), then this obligation shall be null and void, otherwise to remain in full force and effect, subject, however, to the following express conditions and agreements:

(A) That any employee, or the dependent of any employee, of the Principal entitled to compensation under said Workmen's Compensation Law, shall have the right to enforce in his own name the liability of the Surety hereunder in whole or in part for such compensation, either by at any time filing a separate claim against the Surety, or by at any time making the Surety a party to the original claim against the employer; provided, however, that payment in whole or in part of such compensation by either the Principal or the Surety shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

(B) That as between the employee and the Surety, notice to or knowledge of the occurrence of injury, on the part of the employer shall be deemed notice to or knowledge, as the case may be on the part of the Surety; that the jurisdiction of the Surety, and the Surety shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the Principal for the payment of compensation under the provisions of the Workmen's Compensation Law aforesaid, and that the insolvency or bankruptcy of the Principal and his discharge therein, shall not relieve the Surety from the payment of compensation for injuries, including death resulting therefrom, sustained during the life of this bond, by an employee of the Principal, covered under the Workmen's Compensation Law aforesaid.

(C) That upon request of the Industrial Commission of Idaho it will make such changes in this form of bond by endorsement to be attached hereto or by the execution of a surety bond replacing this one, as the said Commission may deem

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SEABOARD SURETY COMPANY, a corporation of the State of New York, has made, constituted and appointed and by these presents does make, constitute and appoint Thomas B. Finneran,

of San Francisco, California,
its true and lawful Attorney-in-Fact, to make, execute and deliver on its behalf insurance policies, surety bonds, undertakings and other instruments of similar nature as follows: Without Limitations.

Such insurance policies, surety bonds, undertakings and instruments for said purposes, when duly executed by the aforesaid Attorney-in-Fact, shall be binding upon the said Company as fully and to the same extent as if signed by the duly authorized officers of the Company and sealed with its corporate seal; and all the acts of said Attorney-in-Fact, pursuant to the authority hereby given, are hereby ratified and confirmed.

This appointment is made pursuant to the following By-Laws which were duly adopted by the Board of Directors of the said Company on December 8th, 1927, and are still in full force and effect:

ARTICLE VIII, SECTION 1:

"Policies, bonds, recognizances, stipulations, consents of surety, underwriting undertakings and instruments relating thereto. Insurance policies, bonds, recognizances, stipulations, consents of surety and underwriting undertakings of the Company, and releases, agreements and other writings relating in any way thereto or to any claim or loss thereunder, shall be signed in the name and on behalf of the Company

- (a) by the President, a Vice President or a Resident Vice President and by the Secretary, an Assistant Secretary, a Resident Secretary or a Resident Assistant Secretary; or
- (b) by an Attorney-in-Fact for the Company appointed and authorized by the President or a Vice President to make such signature; or
- (c) by such other officers or representatives as the Board may from time to time determine.

The seal of the Company shall if appropriate be affixed thereto by any such officer, Attorney-in-Fact or representative."

IN WITNESS WHEREOF, SEABOARD SURETY COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to be hereunto affixed and duly attested by its Assistant Secretary, this 22nd day of July, 1969.

Attest: SEABOARD SURETY COMPANY,
By W. S. Wehrell
(Seal) Ellen M. Sala Assistant Secretary Vice-President

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 22nd day of July, 1969, before me personally appeared W. S. Wehrell Vice-President of SEABOARD SURETY COMPANY, with whom I am personally acquainted, who, being by me duly sworn, said that he resides in the State of New Jersey; that he is Vice-President of SEABOARD SURETY COMPANY, the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of the said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto as Vice-President of said Company by like authority.

State of New York
No. 24-7104540 Qualified in Kings County
Cert. filed in New York County
Commission Expires March 30, 1974
(Seal) Violet Johnson Notary Public

CERTIFICATE

I, the undersigned Assistant Secretary of SEABOARD SURETY COMPANY do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this Certificate and I do further certify that the Vice President who executed the said Power of Attorney was one of the Officers authorized by the Board of Directors to appoint an attorney-in-fact as provided in Article VIII, Section 1, of the By-Laws of SEABOARD SURETY COMPANY.

This Certificate may be signed and sealed by facsimile under and by authority of the following resolution of the Board of Directors of SEABOARD SURETY COMPANY at a meeting duly called and held on the 25th day of March 1970.

"RESOLVED: (2) That the use of a printed facsimile of the corporate seal of the company and of the signature of an Assistant Secretary on any certification of the correctness of a copy of an instrument executed by the President or a Vice-President pursuant to Article VIII, Section 1, of the By-Laws appointing and authorizing an attorney-in-fact to sign in the name and on behalf of the company surety bonds, underwriting undertakings or other instruments described in said Article VIII, Section 1, with like effect as if such seal and such signature had been manually affixed and made, hereby is authorized and approved."

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Company to these presents this 18th day of October, 1972.



Ellen M. Sala
Assistant Secretary

requisite to bring this bond into conformity with its rulings as to the form of surety bond required of employers under Title 72, Chapters 1 to 8 both inclusive I. C. , known as the Workmen's Compensation Law and all amendments thereto.

This bond is issued for an indefinite term to begin on the 6th day of November, 1972, and will continue in full force and effect until terminated in either of the following two manners: This bond may be cancelled by the Surety by filing 60 days written cancellation notice by registered mail with the Industrial Commission of the State of Idaho. This bond may be cancelled by the Industrial Commission of the State of Idaho by written notice to the Surety hereon, which notice shall specify the date of termination of the bond.

IN TESTIMONY WHEREOF, the said Principal and said Surety have caused these presents to be executed in due form this 18th day of October, 1972.

THE BUNKER HILL COMPANY

Countersigned

By: [Signature] By: D. E. Goodson
Assistant Secretary

SEABOARD SURETY COMPANY

By: [Signature]
Thomas B. Finneran, Attorney-in-fact
315 Montgomery Street
San Francisco, California 94104

STATE OF California }
City and } ss.:
COUNTY OF San Francisco }

On this 18th day October 19 72, before me personally came

Thomas B. Finneran

to me known to be an Attorney-in-Fact of SEABOARD SURETY COMPANY, the corporation described in the within instrument, and he acknowledged that he executed the within instrument as the act of the said SEABOARD SURETY COMPANY in accordance with authority duly conferred upon him by said Company.



[Signature]
Notary Public.

Form 848

STATE OF IDAHO)
County of Shoshone)

On this 2nd day of November, 1972, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared D. E. GOODSON, known to me to be the Assistant Secretary of The Bunker Hill Company, the corporation that executed the within and foregoing document and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]
Joanne Radford
Notary Public, State of Idaho
My Comm. Exp: 6-1-73

State of Idaho



Treasury Department

I, MARJORIE RUTH MOON, Treasurer of the State of Idaho,

do hereby certify that the BUNKER LIMITED PARTNERSHIP

of Kellogg, Idaho 83837 placed add a deposit of _____

Three hundred thousand and no/100 (\$ ~~200,000~~) Dollars on

file in this office on October 31, 1983 as follows:

DEPOSITED:

10-31-83 1 Surety Bond #81 S. 25659 BCA
Issued 10-10-83 Indefinite Term
\$300,000.00

Given under my hand and official seal this 31st day of October, 1983

By Marjorie Ruth Moon
State Treasurer

Deputy

General Reinsurance Corporation
600 Steamboat Road
Greenwich, Connecticut 06830

CERTIFICATE OF EXCESS INSURANCE FOR SELF-INSURER
OF WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY

TO: Industrial Commission
Self-Insurance Section
State House
Boise, Idaho 83720

Gentlemen:

This is to certify that an Excess Insurance Policy has been issued
as described below and is now in effect:

Name of Insured: Bunker Limited Partnership & BH Properties, Inc.

Address: P. O. Box 29
Kellogg, Idaho 83837

Policy No.: X- 5434 Effective: October 10, 1984

Expires: Continuous

Insurer Cancellation Notice: 30 days written notice
(10 days non-payment)

Kind of Insurance: Excess Insurance Policy for Self-Insurer of
Workers Compensation and Employers Liability

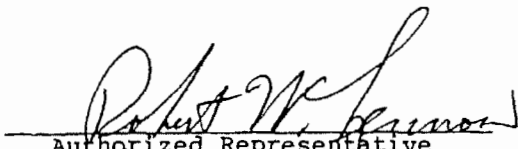
Limits of Indemnity: \$5,000,000 in excess of \$100,000 per accident

Self-Insurer's Operations: Mining

States of Self-Insurer's Operations: Idaho

General Reinsurance Corporation will give written notice in the event
it cancels this policy to the party to whom this Certificate is
addressed.

General remarks:


Authorized Representative

Date: November 9, 1984

State of Idaho



Treasury Department

I, MARJORIE RUTH MOON, Treasurer of the State of Idaho,
do hereby certify that the Bunker Hill Mining Company
of Kellogg, Idaho 83837 ^{cancelled} had a deposit of _____
Seven hundred seventy thousand, nine (\$ 770,955.00) Dollars on
hundred fifty-five dollars and no/100
file in this office on January 10, 1983 as follows:

1-10-83 Self-Insurer's Compensation Bond #2617802 and Riders Cancelled
effective 3-10-83 and still held by State Treasurer
770,955.00 Bond Cancelled

Given under my hand and official seal this 10th day of January, 1983

By *Marjorie Ruth Moon*
State Treasurer

Deputy



CANCELLATION NOTICE

THE AETNA CASUALTY AND SURETY COMPANY
THE STANDARD FIRE INSURANCE COMPANY
Hartford, Connecticut 06115

Office at 2201 6th Avenue
Seattle, WA 98121

Date March 14, 19 85

State of Idaho
Industrial Commission
317 Main
Boise, ID 83720

Bunker Limited Partnership, et al.
P. O. Box 29
Kellogg, ID 83837

You are hereby notified that this Company elects to cancel: **Self-Insurer's Bond**

a) Individual Bond No. _____ Original Effective Date: 10/10/83
covering _____
(Name & Address)

b) Bond or Policy No. 81 S 81025659 BCA

c) Coverage under Bond or Policy No. _____
insofar as the acts of _____ are concerned.

d) Insuring Agreement(s) _____ of Policy No. _____

This cancellation is to take effect on the 15th day of May, 19 85
in accordance with the terms of said Bond or Policy.

Accepted By:

Industrial Commission
M. Edinger

THE AETNA CASUALTY AND SURETY COMPANY

THE STANDARD FIRE INSURANCE COMPANY

By Lisa Lindsay
Lisa Lindsay

CAT. 41563A
PRINTED IN U.S.A.

State of Idaho



Treasury Department

I, MARJORIE RUTH MOON, Treasurer of the State of Idaho,

do hereby certify that the Bunker Hill Mining Company
exchanged

of Kellogg, Idaho 83837 had a deposit of _____

WITHDREW: Four hundred fifty Thousand and no/100 450,000.00-

DEPOSITED: Three hundred fifty Thousand and no/100\$ 350,000.00+ Dollars on

file in this office on April 15, 1976 as follows:

DEPOSITED:

4-15-76 1 Self-Insurer's Compensation Bond #2617802
Effective 4-15-76 Until Terminated
Self-Insurer's Compensation Bond 350,000.00

WITHDREW:

4-15-76 Self-Insurer's Compensation Bond #752780 Cancelled still held by
State Treasurer
450,000.00- Bond Cancelled

Given under my hand and official seal this 15th day of April, 1976.

By Marjorie Ruth Moon
State Treasurer

Deputy



NOTICE OF
CANCELLATION OF BOND

SAFECO INSURANCE COMPANY OF AMERICA
GENERAL INSURANCE COMPANY OF AMERICA
FIRST NATIONAL INSURANCE COMPANY
OF AMERICA
HOME OFFICE: SAFECO PLAZA
SEATTLE, WASHINGTON 98185

11-1099 Fred S. James & Co.

To: Industrial Commission
(OBLIGEE'S NAME/ADDRESS)
State of Idaho
Boise, ID 83706

You are hereby notified that SAFECO INSURANCE COMPANY OF AMERICA, Surety upon

Type of Bond: Self-Insurer's Compensation

Bond No. 2617802

dated effective April 15, 1976
(MONTH, DAY, YEAR)

on behalf of THE BUNKER HILL COMPANY
(PRINCIPAL'S NAME/ADDRESS)

P.O. BOX 29
Kellogg, Idaho 83837

desires to cancel and does hereby cancel said bond in accordance with the cancellation provisions contained therein or in applicable laws or regulations. This notice is

mailed to you on January 5, 1983
(MONTH, DAY, YEAR)

RECEIVED

and is effective 60 Days after receipt of this notice (March 10, 1983)

JAN 07 '83

SAFECO INSURANCE COMPANY OF AMERICA

By: Rebecca S. Grimes
Rebecca S. Grimes Attorney-in-Fact



Cancellation Acknowledged: (PLEASE SIGN AND RETURN THE DUPLICATE OF THIS NOTICE)

By: _____

Dated: _____
(MONTH, DAY, YEAR)

ELAM, BURKE AND BOYD
CHARTERED
ATTORNEYS AND COUNSELORS AT LAW

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
TELECOPIER
208-384-5844

RYAN P. ARMBRUSTER

December 31, 1992

INDUSTRIAL COMMISSION
MANAGEMENT SERVICES

HAND DELIVERY

Ms. Janet Justice
IDAHO INDUSTRIAL COMMISSION
317 West Main Street
Boise, Idaho 83720

DEC 31 1992

RE: Idaho Self-Insured's Compensation
Bond #2617802
Bunker Hill Company-Pintlar Corporation

Dear Janet:

Thank you for speaking with me last week concerning the above referenced matter. The letter dated December 15, 1992 from William D. Robbins, Fiscal Officer, to Safeco Insurance Company of America, has been forwarded by Safeco to Pintlar for its response. As I explained, this law firm represents the interests of Pintlar Corporation and Gulf Resources and Chemical Corporation. As of November, 1982, Pintlar had sold its interest in the Bunker Hill mine to Bunker Limited Partnership, and Pintlar no longer operates the mine. With regard to claims which pertain to operations at the Bunker Hill Mine prior to the sale in 1982, Pintlar intends to honor its obligations. We do not, of course, have any involvement with claims which relate to operations of Bunker Limited Partnership or Bunker Hill Mining Company (U.S.), Inc. (BHMC), after November 1982.

Based upon the information I obtained during our telephone conversation, I contacted the attorney for BHMC, Ford Elsaesser, to determine whether BHMC is in possession of files pertaining to pre-1982 claims and to address the transfer of the worker's compensation files. Mr. Elsaesser indicated BHMC would cooperate with the orderly transfer of the worker's compensation files involving pre-November 1982 claims. In order to assist Mr. Elsaesser and me in the transfer, I hereby formally request from the Industrial Commission a list of all open time-loss claims bearing an accident date or occupational disease date prior to November, 1982.

Ms. Janet Justice
December 31, 1992
Page 2

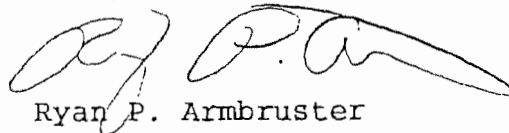
At the present time, Pintlar will attempt to cause the files be transferred to the offices of Pintlar Corporation in Kellogg, Idaho. Pintlar maintains its office at 1005 West McKinley, P.O. Box 480, Kellogg, Idaho 83837; telephone no. 784-1321; fax no. 783-6621. Pintlar would intend to retain custody of those files and to administer the handling of those files through those offices.

By copy hereof, I am formally advising Safeco Insurance Company of America of this proposed action and request that Safeco verify its approval of this action in writing by letter to the Industrial Commission.

You may contact me or Mr. William J. Russell, vice president and general counsel of Pintlar, should you have any questions or need any additional information at this time.

Very truly yours,

ELAM, BURKE AND BOYD, Chartered



Ryan P. Armbruster

RPA:jm

cc: William J. Russell, Esquire
Ford Elsaesser, Esquire
Bruce Echlgoshima

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

PAUL E. FRANK,)
)
 Claimant,)
)
 v.)
)
 THE BUNKER HILL COMPANY,)
)
 Employer/Self-Insured.)
)
 Defendant.)
)
 _____)

IC 80-341382
**ORDER GRANTING
LEAVE TO CONDUCT
DISCOVERY**
FILED
APR 16 2009
INDUSTRIAL COMMISSION

The case is before the Commission on remand from the Supreme Court for a determination of the proper parties. Claimant and Bunker Limited Partnership have filed briefs and motions regarding this issue. The Commission will first address Claimant's various motions. Claimant's motion to take judicial notice of documents presented with Claimant's brief is granted. Claimant's motion to strike, in part, the affidavit of Jack Kendrick is denied. Claimant's motion to compel Bunker Limited Partnership to produce a copy of the purchase agreement whereby Bunker Limited Partnership may have purchased the assets of The Bunker Hill Company is granted. The purchase agreement might illuminate what happened to The Bunker Hill Company's workers' compensation liability regarding Paul Frank, if such a purchase agreement did exist or is still in existence.

The Commission has reviewed the file, including the most recent filings from Claimant and Bunker Limited Partnership, and finds it is without the evidence to make a determination of the proper parties beyond Paul Frank and The Bunker Hill Company.

**ORDER GRANTING LEAVE
TO CONDUCT DISCOVERY - 1**

At the time of Claimant's injury he was employed by The Bunker Hill Company. The Bunker Hill Company has always been the named Defendant. No action has ever been taken to add or substitute any other defendants. Particularly, Pintlar Corporation, Gulf Resources, and Bunker Limited Partnership have never been officially joined to this action.

References to Pintlar, Gulf, and Bunker Limited Partnership exist in the record beginning in 1993. Yet, from May 2003 through June 2004 The Bunker Hill Company participated in the case through counsel separate from counsel for Gulf, Pintlar, and Bunker Limited Partnership. The Bunker Hill Company has not appeared in the case since its counsel of record withdrew on July 21, 2004. After counsel withdrew no other counsel appeared and no address was given for The Bunker Hill Company.

Therefore, Claimant is granted leave to conduct independent discovery and submit evidence to the Commission to assist in determining the proper parties to this action. If the Commission is provided with additional evidence it will review the documents and issue an additional order. Alternatively, Claimant may advise the Commission of his desire to have the Commission make a determination of the proper parties on the basis of the evidence before it.

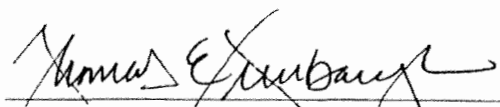
IT IS SO ORDERED.

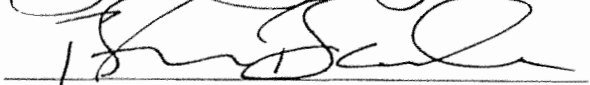
DATED this 16th day of April, 2009.

INDUSTRIAL COMMISSION

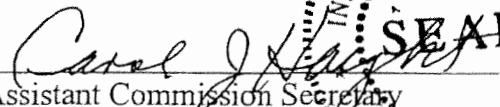



R.D. Maynard, Chairman


Thomas E. Limbaugh, Commissioner


Thomas P. Baskin, Commissioner

ATTEST:


Assistant Commission Secretary



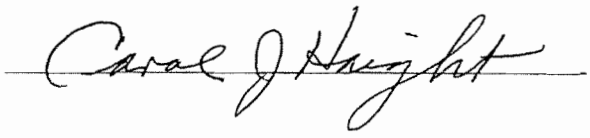
The seal is circular with a dotted border. The outer ring contains the text "INDUSTRIAL COMMISSION" at the top and "STATE OF IDAHO" at the bottom, separated by a star on the right. In the center, the word "SEAL" is written in a bold, serif font.

CERTIFICATE OF SERVICE

I hereby certify that on 16th day of April 2009, a true and correct copy of the foregoing ORDER GRANTING LEAVE TO CONDUCT DISCOVERY was served by regular United States Mail upon each of the following:

JOHN J ROSE, JR.
708 W. CAMERON AVENUE
KELLOGG, ID 83837

BUNKER LIMITED PARTNERSHIP
PO BOX 53
CATALDO, ID 83810



LAW OFFICE OF
 JOHN J. ROSE, JR., PC
 708 W. Cameron Avenue
 Kellogg, Idaho 83837
 Phone: (208) 783-3501
 ISB 2094

Attorney for Claimant

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

- - - - -

PAUL E. FRANK,	]	No. IC 1980-341382
]	
Plaintiff,]	
]	
vs.	]	AFFIDAVIT OF JOHN J.
	]	ROSE, JR. WITH SUBMISSION
THE BUNKER HILL COMPANY,	]	OF DOCUMENTS
]	
Defendant.]	

- - - - -

STATE OF IDAHO)	
	)	ss.
County of Shoshone)		

JOHN J. ROSE, JR., being duly sworn, deposes and says:

This affidavit is made to authenticate documents produced by Bunker Limited in response to Paul Frank's request for production of documents regarding the Bunker Limited Partnership purchase of the assets of Bunker Hill Company and Gulf Resources.

I am the attorney for Paul Frank and the documents attached hereto are excerpts of the agreement whereby Bunker Limited

1. AFFIDAVIT OF JOHN J. ROSE, JR. WITH SUBMISSION OF DOCUMENTS

FILED
 MAR 20 2010
 FRI 11:00 AM
 CLERK OF COURT
 IDAHO
 KELLOGG
 COUNTY OF SHOSHONE

CONFIDENTIALITY AGREEMENT

This Agreement is made this _____ day of May, 2009, between Bunker Limited Partnership, an Idaho limited partnership (hereinafter "Bunker Limited"), and Paul E. Frank, an individual residing in Shoshone County, Idaho (hereinafter "Frank").

Whereas, Frank is the claimant in that certain case pending before the Idaho Industrial Commission titled "Paul E. Frank v. The Bunker Hill Company, Case No. IC 80-341382";,

Whereas, Frank seeks formal discovery in said case of a document in the possession of Bunker Limited's attorney known as the "Black Transaction Book", for the purpose of utilizing any evidence it may contain in connection with said case, a bound book of documents that contains the "Asset Purchase Agreement" and documents referred to in the Asset Purchase Agreement;

Whereas, the Asset Purchase Agreement is a contract among The Bunker Hill Company, Bunker Limited Partners and Gulf Resources And Chemical Corporation;

Whereas, Bunker Limited is willing to cause its attorney, William F. Boyd, to produce the Black Transaction Book for the inspection, review and copying by John J. Rose, Jr., Frank's attorney, if confidentiality of its contents can be preserved in accordance with this Agreement.

Now therefore, the parties hereto agree as follows:

1. Boyd shall produce the Black Transaction Book for the inspection, review and copying by Rose upon four hours advance notice to Boyd (or his assistant, TinaMarie Bell), from Rose.

2. Said Book shall be inspected at Boyd's office, Ramsden & Lyons, 700 N.W. Blvd., Coeur d' Alene, Idaho.


3. Rose shall designate what parts of the Book he wants copied, and Boyd shall cause the copies to be made and delivered to Rose either at the time of inspection, or within two business days after the inspection.

4. Rose and Frank agree that neither of them shall show or otherwise disclose, at any time, to any third person, the contents of the Transaction Book.

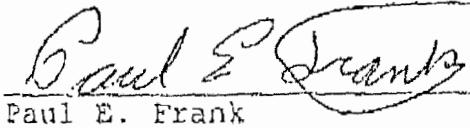
5. It is agreed, however, that Rose may utilize any material within said Transaction Book in the case cited above, assuming it is otherwise admissible evidence, so long as Rose takes reasonable measures that the material is protected against disclosure to persons or entities other than the Commission.

6. Rose shall promptly return to Boyd all Transaction Book material that it not utilized by him in the course of prosecution of Frank's case.

In Witness Whereof the parties hcreto set their hands effective on the date first written above.



John J. Rose Jr.



Paul E. Frank

William F. Boyd for himself and
as attorney for Bunker Limited

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

PAUL E. FRANK,)	
)	
Claimant,	)	IC 80-341382
)	
v.	)	ORDER ON
	)	REMAND RE: DETERMINATION
THE BUNKER HILL COMPANY,	)	OF PROPER PARTIES
)	
Employer/Self-Insured,)	
)	
and)	
	)	FILED
BUNKER LIMITED PARTNERSHIP,	)	JAN 14 2010
)	
Self-Insured,	)	INDUSTRIAL COMMISSION
)	
Defendants.)	
_____)	

The case is before the Commission on remand from the Supreme Court for a determination of the proper parties. This case has a long and confusing history, which is only partially clarified by what is contained in the Industrial Commission files. The Commission will set forth as much detail as possible in an attempt to clarify the situation and determine the proper parties.

BACKGROUND

Claimant was employed by The Bunker Hill Company when he was injured in a mining accident on November 12, 1980. In 1983, Claimant filed a complaint against The Bunker Hill Company with the Industrial Commission. Claimant was originally found totally and permanently disabled, but following a petition for change of condition in 1986, the Commission

found that Claimant was entitled to 55% permanent partial disability. In 1988 and 1990, the Supreme Court affirmed the Commission's decision to award Claimant 55% permanent partial disability.

The Bunker Hill Company was a mining company which operated in and around Kellogg, Idaho. In 1968 The Bunker Hill Company became a wholly owned subsidiary of Gulf Resource & Chemical Corporation (Gulf). Bunker Limited Partnership acquired certain assets and obligations of The Bunker Hill Company in 1982. The Asset Purchase Agreement (the Agreement) by which Bunker Limited Partnership purchased portions of The Bunker Hill Company will be discussed in more detail below. By the time of the sale, what remained of The Bunker Hill Company had changed its name to Pintlar Corporation and remained a wholly owned subsidiary of Gulf.¹

The Bunker Hill Company was self insured for purposes of workers' compensation, as was Bunker Limited Partnership when they formed in 1982. In 1992, Bunker Limited Partnership filed for bankruptcy. An Order Confirming Bunker Limited Partnership's Plan of Reorganization was issued on July 13, 1992 by the U.S. Bankruptcy Court of the Eastern District of Washington.

The Asset Purchase Agreement

The Asset Purchase Agreement was entered into on November 1, 1982 by Gulf Resources & Chemical Corporation, The Bunker Hill Company, and Bunker Limited Partnership. Gulf owned all of the outstanding capital stock of The Bunker Hill Company. In

¹ The background pertaining to Bunker Limited Partnership was found in the Disclosure Statement attached to the Plan of Reorganization and Order Confirming the bankruptcy of Bunker Limited Partnership filed with the Affidavit of William F. Boyd on November 16, 2009.

the transaction Bunker Limited Partnership purchased specified assets and assumed specified liabilities of The Bunker Hill Company.

Bunker Limited Partnership agreed to assume, pay and discharge the liabilities and obligations created by workman's compensation awards and claims, whether now or hereafter filed, subject to the terms of Section 5.10 of the Asset Purchase Agreement. Section 5.10 is titled right of Bunker Limited Partnership to reimbursement of certain excess contingent liabilities. It states that in the event that Bunker Limited Partnership is ultimately required to pay in excess of \$6,000,000 for (i) medical benefits to The Bunker Hill Company's retired employees and (ii) workers' compensation payments to employees of The Bunker Hill Company, then The Bunker Hill Company and Gulf will reimburse Bunker Limited Partnership for up to \$5,000,000 of such excess provided that The Bunker Hill Company and Gulf are given ample opportunity to participate fully at their expense in the defense of the matters describes in clauses (i) and (ii) above.

Bunker Limited Partnership's Bankruptcy Plan of Reorganization

In 1992, Bunker Limited Partnership filed for Chapter 11 Bankruptcy. An Order Confirming Bunker Limited Partnership's Plan of Reorganization was issued on July 13, 1992. Included in Plan of Reorganization is Exhibit C titled "The Bunker Hill Company Workers' Compensation Claims." The exhibit states certain responsibilities were assumed by Bunker Limited Partnership for workers' compensation claims incurred by The Bunker Hill Company. The exhibit then lists nine specific individuals in this group, one of whom is Paul Frank. The exhibit states that the only ongoing liability is medical care.

The Plan of Reorganization has a subsection dedicated to workers' compensation claims.

The section states that two annuities will be purchased for two specific individuals respectively. The Plan then states that “[t]he ongoing medical payments for the former employees of The Bunker Hill Company shall be satisfied by establishing a reversionary trust with a \$40,000 corpus. The trust will be administered by Washington Trust in Spokane, Washington at an estimated yearly cost of \$500 to \$600. The annual yield from the corpus shall be available to fund ongoing medical claims.” Exhibit 4 Plan of Reorganization p. 21, attached to the Affidavit of William F. Boyd filed on November 16, 2009.

CONTENTIONS OF THE PARTIES

Claimant avers that the Asset Purchase Agreement creates a contractual responsibility which holds Bunker Limited Partnership responsible for Claimant’s benefits. Additionally, Claimant argues that Bunker Limited Partnership had no authority to cancel The Bunker Hill Company’s self-insured bond. Claimant alleges that Bunker Limited Partnership, Gulf, and Pintlar have been misleading Claimant, the Industrial Commission, and the Idaho Supreme Court. In conclusion, Claimant requests that the Commission hold the individuals who formed Bunker Limited Partnership responsible for the medical care related to Claimant’s industrial injuries.

Bunker Limited Partnership states that while it has never been the employer of Paul Frank, it assumed some of The Bunker Hill Company’s workers’ compensation liability, to a limited extent, and is willing to honor its responsibility in that regard. Claimant has never moved to name Bunker Limited Partnership as a defendant in this case. Bunker Limited Partnership argues that Idaho Code § 72-701 bars any claim against it, and if Claimant is pursuing a contract claim the Industrial Commission is not the proper venue. Finally, Bunker Limited Partnership

**ORDER ON REMAND RE:
DETERMINATION OF PROPER PARTIES - 4**

states that it filed bankruptcy and a \$40,000 reversionary trust was established to fund medical claims made by workers' compensation claimants.

DISCUSSION

The case is before the Commission on remand from the Supreme Court for a determination of the proper parties. Three years after Claimant's industrial accident his employer, The Bunker Hill Company entered into an agreement with Bunker Limited Partnership. This transaction was complete before Claimant's original hearing before the Industrial Commission, yet the caption was never modified to acknowledge any change in responsible parties. Claimant was awarded disability and in 1990, the Supreme Court affirmed the Commission's disability award.

On August 3, 1992, Claimant's counsel submitted an affidavit stating that Bunker Limited Partnership had filed bankruptcy reorganization proceedings. On December 17, 1993, a letter was sent to the Commission advising that on August 18, 1993, an involuntary petition pursuant to Chapter 11 of the Bankruptcy Code was filed against Gulf and Pintlar. Pursuant to the Bankruptcy Code, the filing of a petition acts as an automatic stay of all actions and proceedings.

The case lay dormant for many years while Claimant utilized his wife's health care insurance to cover a portion of his medical care costs. When activity in the case resumed, Claimant's counsel stated he did not have an address for The Bunker Hill Company and the Bunker Limited Partnership stated that its responsibility was limited by the bankruptcy Plan of Reorganization.

At the time of Claimant's injury he was employed by The Bunker Hill Company. The

Bunker Hill Company has always been the named Defendant. No action has ever been taken to add any other defendants. Particularly, Pintlar Corporation, Gulf, and Bunker Limited Partnership have never been officially joined to this action. For a time Gulf USA Corporation and Pintlar Corporation were named as defendants. On remand from the Supreme Court, the Commission dismissed Gulf USA Corporation and Pintlar Corporation as improper parties on December 21, 2006.

Though Bunker Limited Partnership correctly argues that it was never a named defendant in this action, we find that the Asset Purchase Agreement attests to its assumption of The Bunker Hill Company's workers' compensation liability. Bunker Limited Partnership admits, in the affidavit of J.W. Kendrick, that it took an active role in the defense of Paul Frank's workers' compensation claim. Additionally, the bankruptcy Plan of Reorganization specifically names Paul Frank and other employees of The Bunker Hill Company for which Bunker Limited Partnership assumed workers' compensation responsibility.

That being said, Bunker Limited Partnership has filed and completed its bankruptcy proceedings. Claimant's remaining avenue of relief is to present a claim for medical benefits from the \$40,000 reversionary trust administered by Washington Trust in Spokane, Washington. The annual yield from the corpus of the trust is available to fund ongoing medical claims, until no longer required.

The Commission finds that Bunker Limited Partnership assumed responsibility for Paul Frank's right to workers' compensation benefits when it entered into the Asset Purchase Agreement with The Bunker Hill Company and thus, is a party to this case. Bunker Limited Partnership defended the claim and made no assertion that it was not the proper party. This issue

could have been assisted by Claimant making a request to add Bunker Limited Partnership as a defendant, but no request has been made. Yet with the facts presented to the Commission, and on a specific directive from the Idaho Supreme Court to determine the proper parties, the Commission concludes that it is appropriate to name Bunker Limited Partnership as a Defendant in this matter.

Bunker Limited Partnership's argument that Idaho Code §72-701 bars a claim against them is unpersuasive. Bunker Limited Partnership voluntarily assumed responsibility for Claimant's workers' compensation claim when it entered into the Asset Purchase Agreement. Bunker Limited Partnership had access to all the information relevant to Claimant's claim against The Bunker Hill Company.

Claimant alleges that the original partners of Bunker Limited Partnership should be responsible for Claimant's current medical care. While the Commission understands the difficult situation that Claimant is currently in, the Commission has no authority to extend liability to the original partners of Bunker Limited Partnership as requested by Claimant nor does Claimant present a legal basis for such liability.

CONCLUSION

The Commission has been directed by the Idaho Supreme Court to determine the proper parties in this matter. Based upon the foregoing reasons, the Commission determines that Claimant's employer at the time of his injury was The Bunker Hill Company, as stated in the caption, but that Paul Frank's workers' compensation claim was acquired by Bunker Limited Partnership who subsequently went bankrupt. By such assumption, Bunker Limited Partnership was made a Defendant to the above entitled claim by Paul Frank. Accordingly, Bunker Limited

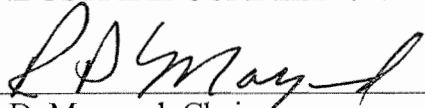
**ORDER ON REMAND RE:
DETERMINATION OF PROPER PARTIES - 7**

Partnership will be added to the caption in this matter. The practical effect of amending the caption is limited by the fact that Bunker Limited Partnership filed bankruptcy in 1992.

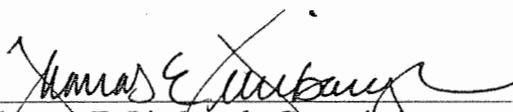
IT IS SO ORDERED.

DATED this 14th day of January, 2010.

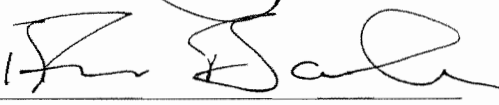
INDUSTRIAL COMMISSION



R.D. Maynard, Chairman

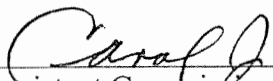


Thomas E. Limbaugh, Commissioner



Thomas P. Baskin, Commissioner

ATTEST:



Assistant Commission Secretary



**ORDER ON REMAND RE:
DETERMINATION OF PROPER PARTIES - 8**

CERTIFICATE OF SERVICE

I hereby certify that on 18th day of January, 2010, a true and correct copy of the foregoing ORDER ON REMAND RE: DETERMINATION OF PROPER PARTIES was served by regular United States Mail upon each of the following:

JOHN J ROSE JR
708 W CAMERON AVENUE
KELLOGG ID 83837

BUNKER LIMITED PARTNERSHIP
PO BOX 53
CATALDO ID 83810

IDAHO SUPREME COURT
STATE HOUSE MAIL
PO BOX 83720
BOISE ID 83720-0101

sb/cjh

