

Bunker Hill & Sullivan Mining & Concentrating Company.

MINES AND WORKS AT WARDNER, IDAHO.

POSTOFFICE ADDRESS,

KELLOGG, IDAHO,

Octo. 30, 1899.

F. W. Bradley, Esq.,

President Bunker Hill & Sullivan M. & C. Co.

Crocker Building, San Francisco.

My dear Mr. Bradley:-

I am in receipt of your esteemed favor of the 24th inst, written from El Paso and addressed here in the care of Mr. Burbidge.

In reference to the opening statement, its scope and the expediency of inviting a discussion of the legal effect of failure to advise before starting the trial of the case, I conferred with Judge McBride and Mr. Allen at Spokane. It seems before my arrival there Judge McBride had mentioned the matter to the other side, and it seemed to be the concensus of opinion that that was the proper course to pursue, the other side agreeing to take advantage of the opportunity to bring up the question for decision upon the opening statement.

There are a great many things to be said in favor of this plan and its general expediency, and as you suggest, there are some things to be said in favor of proceeding with the trial of the case and making a record as we go along. All these questions of expediency may be canvassed thoroughly on your arrival, and then a final conclusion reached as to the best course to pursue.

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I telephoned to Judge McBride this morning advising him of the receipt of your letter, and requesting him to notify the counsel on the other side that the matter of the scope of the opening statement would have to be suspended until such time as we had an opportunity to confer further in the matter.

It will be almost impossible for us to state our case or to prove a single map without its appearing to the court that the Last Chance is patented and the Stemwinder is not. This of itself will necessarily precipitate the question, and in such a way that we might lose the advantage of the full and fair explanation to the jury on the threshold of all the facts of the case. The importance of presenting the case in the opening statement fully and circumstantially with illustrations by maps and models (assuming that the court will permit the use of maps and models) cannot be over-estimated. It is a practical education to the jury in advance, so that each bit of testimony as it comes along will be understood and appreciated by them in the light of the opening statement. If we are to eliminate out of our opening statement the fact that any such thing as the Last Chance exists, and simply make a skeleton presentation of the fact that there is a controversy between two mining claimants, we may be considerably hampered in making the proper presentation on the threshold of the case.

We should of course like to get all the witnesses on re-

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cord; but in the event of a new trial the testimony could not be used unless the witness were either dead or absent from the State, and even then I am not sure that it could be done in the federal courts, although I think it could.

The work of preparation is proceeding with due good diligence. Everybody seems to be working with a spirit and on harmonious lines.

It is quite evident that your geological theories outlined in your letter to Mr. Burbidge are not quite approved of by any of the experts in the case. Messrs. Rueger, Bulkley and Clement have been assiduously studying the under ground works of the mines; and while I have as yet no definite formulation of their views it seems quite apparent that there will be some divergence between their conclusions and the ones outlined by you; but as both tend to the same result, and from a legal standpoint are satisfactory, I am not at all worried over the situation, nor do I think there is any reason for uneasiness on account of the discrepancies in theories.

We are as yet without positive information as to the probable date of trial. The prosecution of the dynamiters is now under way, and the impression seems to be general that this week will close those prosecutions. If this is the case we shall probably reach the trial about the 7th or 8th or in that neighborhood.

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Jack Smith is here; Tyler arrived yesterday. Sandy Devine, Tyler, McBride and Allen will all come on the ground in a day or so.

I feel quite confident that the case will be prepared by the time it is reached on the court calendar. We should be very much pleased to have you with us that you might give us the benefit of your counsel and advice, but the opportunity for such counsel will be ample before the trial if your programme is carried out.

Sincerely yours,

