



IN REPLY REFER TO:

# United States Department of the Interior

OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
1999 Broadway, Suite 3320  
Denver, Colorado 80202-5733

April 9, 2002

Mr. Lowell P. Braxton, Director  
Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

**RECEIVED**

APR 11 2002

DIVISION OF  
OIL, GAS AND MINING

Dear Mr. Braxton:

In a recent conversation between Ron Daniels of the Division of Oil, Gas and Mining (DOGM) and Ron Sassaman of this office, Mr. Daniels informed us that DOGM soon plans to revise its valid existing rights (VER) rules in response to the September 19, 2000, letter we sent to you under 30 CFR Part 732.17(c). In that context, Mr. Daniels asked if a recent court decision affects the Federal VER regulations that DOGM would base its proposed rule changes on. After consulting with Office of Surface Mining headquarters and reviewing the decision, we advise that you may delay your VER rulemaking in light of the recent court decision.

As you know, the United States District Court for the District of Columbia issued a decision in *Citizens Coal Council et al. v. Norton and NMA*, Civ. No. 00-0274 (JR) (D.D.C. March 28, 2002) that found the Secretary's interpretation of the term "surface coal mining operations" as defined at section 701(28) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to be contrary to law. The Court also found the Secretary's interpretation of those surface coal mining operations prohibited in areas protected under section 522(e) of SMCRA to be contrary to law. The Court's decision does not directly affect the Federal VER regulations, but it indirectly affects them and has potentially far-reaching effects.

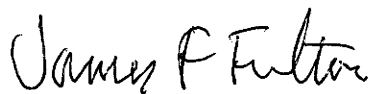
Appeals of the Court's decision are likely but the outcome of any appeals is uncertain. In view of that uncertainty, it is reasonable to delay your VER rulemaking until we are better able to determine if, and how, any Federal regulations will change. On the other hand, you are welcome to continue your VER rulemaking. If you choose to continue your VER rulemaking now, please note that we might defer our decision on your proposed rule changes until we know better how our regulations are affected and/or you might have to make changes again later.

Please CC → M.A.W.  
P.L.  
R.W.D.

File orig in  
"BSM Incoming"

Please contact Ron Sassaman or me at (303) 844-1400, extension 1521 or 1424, respectively, if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "James F. Fulton".

James F. Fulton, Chief  
Denver Field Division



United States Department of the Interior  
FISH AND WILDLIFE SERVICE  
UTAH FIELD OFFICE  
2369 WEST ORTON CIRCLE, SUITE 50  
WEST VALLEY CITY, UTAH 84119

SM Evaluation File

CC: Pam  
Susan

In Reply Refer To

FWS/R6  
ES/UT

May 2, 2002

Pamela Grubaugh-Littig  
Department of Natural Resources  
Utah Division of Oil, Gas and Mining  
Box 145801  
Salt Lake City, Utah 84114-5801

RE: Public Outreach for the Evaluation of the Utah Coal Regulatory Program (Division of Oil, Gas and Mining & Federal Office of Surface Mining), Outgoing File

Dear Ms. Grubaugh-Littig :

This responds to your letter of February 6, 2002 regarding the subject matter. Your efforts to determine the effectiveness of your agency in minimizing mining impacts and in ensuring successful mine reclamation are appreciated. We especially commend the inclusion of the following topics for this year's review:

- Vegetation succession of reclaimed lands,
- Construction of electrical lines to prevent electrocution of raptors, and
- Offsite impacts caused by exploration operations and success in reclaiming exploration sites.

Remedying lethal power line designs involves modifying problem structures or using new construction designs with proper spacing of design elements. Important design components for raptor protection include providing adequate separation between conductors and/or grounded hardware, or insulating hardware or conductors against simultaneous contact if such separation is not possible. Perch guards may also be used to prevent larger raptors from landing on the power poles. Specific guidelines are provided in *Avian Power Line Interaction Committee. 2000. Suggested practices for raptor protection on power lines. Edison Electric Institute/Raptor Research Foundation. Washington, D.C.* Ordering information is available at [www.eei.org/products/environmental](http://www.eei.org/products/environmental). We also recommend you investigate the resources and protocols developed for the Raptor Electrocution Reduction Program of HawkWatch International (HWI) and Pacificorp.

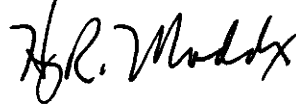
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MAY 06 2002

DIVISION OF  
OIL, GAS AND MINING

If you need further assistance, please contact Diana Whittington, Ecologist, at the letterhead address or (801) 975-3330 ext. 128

Sincerely,

A handwritten signature in black ink, appearing to read "H.R. Maddux". The signature is written in a cursive style with a large initial "H" and "M".

Henry R. Maddux  
Utah Field Supervisor

cc: Office of Surface Mining, (Att.: Dennis Winterringer), Denver Field Division, 1999  
Broadway, Suite 3320, Denver, Colorado 80202-5733