



environmental consultants, inc.

OSM File
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December 6, 2005

Ms. Susan M. White
Utah Division of Oil Gas and Mining
P.O. Box 145801
Salt Lake City, Utah 84114-5801

RE: Public Outreach for the Evaluation of the Utah Coal Regulatory Program

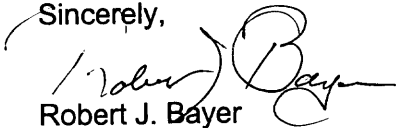
Dear Ms. White:

Thank you for your letter of October 21 regarding the upcoming evaluation of the coal regulatory program. I have no comments on the first and third of the potential topics that you list in your letter. Regarding the second topic, interagency coordination for wildlife consultation, I offer the following comments:

- All coordination should be conducted in accordance with specific procedures spelled out in memoranda of understanding or similar documents among the agencies involved, presumably UDWR and UDOGM.
- The MOU(s) should be readily available to the regulated community and the public at large; at a minimum it should be posted on the websites of both Divisions. A link to all inter-division MOUs might also be provided on the DNR website.
- Staff in both Divisions should be provided with necessary training, instruction, and management oversight to ensure that they follow the procedures, which should emphasize the need for consistency and science-based (not individual-opinion-based) decision making.

I suggest that an additional topic be addressed: an assessment of the consistency of the application of the coal rules by Division staff with the actual intent of the rules. I have seen recent examples of application and interpretation of rules (notably those involving coal exploration) by Division staff and management that seem to be different from the rules as they are written. The Division should ensure that the letter of the rule and not individual past experience or interpretations is applied when making determinations of rule applicability. The regulatory burden created by inconsistent or incorrect interpretation of some rules may be causing a significant cost to applicants and permittees, as well as creating unnecessary work for Division staff.

Sincerely,


Robert J. Bayer
Managing Principal

Cc: J. Baza, Director UDOGM
MaryAnn Wright, Associate Director UDOGM

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