



State of Utah

**Department of
Natural Resources**

MICHAEL R. STYLER
Executive Director

**Division of
Oil, Gas & Mining**

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

October 25, 2006

Brent Wahlquist
Acting Director
Office of Surface Mining
1951 Constitution Avenue
Washington, DC 20240

Subject: Request for Meeting on Need for Additional Funding

Dear Director Wahlquist:

This letter is to request a meeting to discuss the serious budget shortfall that the Utah Coal Regulatory Program within the Utah Division of Oil, Gas and Mining (OGM) is facing at the present time. If Utah maintains its current level of program expenditure, then as of mid-April 2007, there will not be sufficient federal funds to continue to operate as we are now. Utah is alerting OSM at this time in hopes that OSM may find additional financial resources to make available to Utah for the current budget year. Without additional funding, Utah will be forced to reduce its staffing level and program performance will suffer. Because of the timing of the state fiscal year, we would be forced to reduce staffing drastically for the remainder of this grant year, and by some incremental amount in future years. OSM would need to take over a large part of the permitting and inspection. Thus, we desire to work with OSM to devise a plan to continue program activities at current state run performance levels.

Utah has not arrived suddenly at this situation but has continued to try and keep OSM informed about the funding shortfall each year. In order to maintain its program, Utah has been required to overmatch OSM funding beginning as far back as year 2001. This will in fact be the sixth consecutive year that Utah will supplement the required match from OSM. However, last year's shortfall was too large to overmatch with what we normally have available as spare funds. We achieved last year's overmatch only because of coincidental and substantial under-expenditure in a separate state funded Oil and Gas Regulatory Program within OGM. A similar under-expenditure in that program is not anticipated again this year, and the Coal Program shortfall has grown even larger - creating an even more drastic funding condition than last year. In addition, Utah actually received \$32,200 less in federal funding in 2006 than 2005. The following table explains the recent history of Utah requests and awards.

Comparison of Grant Years 2001 to 2006

<u>Award</u>	<u>Request</u>	<u>Total Exp.</u>	<u>Federal Percent</u>	<u>Fed. Share</u>	<u>Final OSM Award</u>	<u>Shortfall overmatched by Utah</u>
Grant year 2001	2,168,023.00	2,028,632.00	87.3%	1,770,995.74	1,764,267.00	(6,728.74)
Grant year 2002	2,084,874.00	2,012,789.00	88.6%	1,783,331.05	1,763,318.00	(20,013.05)
Grant year 2003	2,122,848.00	1,940,668.00	88.5%	1,717,491.18	1,709,100.00	(8,391.18)
Grant year 2004	2,246,700.00	2,018,445.00	88.5%	1,786,323.82	1,730,419.00	(55,904.82)
Grant year 2005	2,432,947.00	2,236,172.78	88.1%	1,970,068.22	1,743,698.02	(226,370.20)
Grant year 2006	2,515,420.00	2,340,410.39 ⁽¹⁾	88.4%	2,068,922.79 ⁽¹⁾	1,698,219.00 ⁽¹⁾	(370,703.78) ⁽¹⁾

⁽¹⁾ Projected for current year

As you can see, not only was the award in 2005 less than the grant requested, it also was less than the federal share of expenditures by \$226,370. Utah believes the current size of its program including its staffing level and overall program cost is what is necessary to administer the program adequately. We have arrived at this level based on our experience since approval of the program in 1981. We believe the program is very focused and lean, and we are only asking for funds needed to support the current program.

Almost the entire grant is devoted to personnel costs and travel to effect the permitting and inspection of mines. Within the current state fiscal year, July 1, 2006, through June 30, 2007, personnel costs alone are projected at \$1,909,430 for 23 FTEs. This figure does not include indirect costs, travel or other required costs for the program. Utah's request for this current grant was for \$2,515,420 (of which \$2,223,631 was due to be federal dollars.) OSM, however, has provided funding of only \$1,618,219. This amount is \$525,412 short of the actual request.

Market survey increases for Environmental Scientists and Engineering Technicians and Cost of Living Adjustments given by the Utah Legislature after a 3-year hiatus, along with health insurance increases have served to compound personnel costs. As these costs have escalated and added to the funding level need, likewise, Utah has also taken on many duties that OSM has delegated or requested Utah to take on, none of which have been funded by OSM. For example, Utah has performed SHPO clearance and coordination with Native Americans, developed NEPA documents for permitting actions, performed self- and team evaluations, and runs the federal lands program requiring intense coordination with BLM and the USFS.

Utah understands that OSM is reluctant to request additional funding of the Department or Congress. At the same time, Utah does not understand how OSM can fulfill its charge to have the states run effective programs when it is seriously under-funding state programs. OSM's flat funding to regulatory programs over the past 5-7 years belies the priorities which you stated to Western States in August, 2006 and to IMCC member states two weeks ago. You provided the priorities at those meetings as:

Page 3
Brent Wahlquist
October 25, 2006

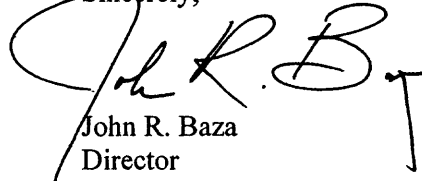
1. Adequate funding to state regulatory programs
2. Funding to lift the quality of state programs
3. Funding to keep the doors open at OSM; i.e. rules, grants, and operations
4. Construction dollars for AML

Utah is clearly not being served by the stated first goal if OSM does not provide sufficient funding to support the current Utah program.

It is important that OSM understand that Utah has for the last five years provided OSM information on the need for increased regulatory funding via the "18 month estimate forecasts" and has also made note of the shortfall each time OSM has under-funded Utah.

In summary, it is clear that Utah needs additional funding in order to avoid laying off valuable staff and destroying an excellent program, and it is also imperative that OSM and Utah need to meet and come to an accord on adequate funding. This meeting needs to occur, whether OSM intends to allow program performance to suffer, or whether OSM wishes for the state to run the program as Congress intended. We would like to meet with you in the next two weeks to resolve this issue. Please contact me at 801-538-5334. I look forward to our discussion in resolving this matter of under-funding.

Sincerely,



John R. Baza
Director

JRB/vs

cc: Mike Styler
Al Klein
Jim Fulton
Utah Mining Association
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