

0038

2006 Interagency ok

From: Mary Ann Wright
To: osmregs@osmre.gov
Date: 12/11/2006 5:18:13 PM
Subject: O and C rule comments

December 11, 2006

Brent Wahlquist
Acting Director
Office of Surface Mining
1951 Constitution Avenue, N. W.
Washington, D. C. 20240

Re: Letter of Support to the Comments of the Interstate Mining Compact Commission (IMCC) –
Docket Number 1029-AC52 (October 10, 2006 Federal Register Notice)

Dear Director Wahlquist:

The State of Utah supports the comments of the IMCC in regard to the proposed rule changes regarding Ownership and Control. Utah is likewise concerned that the general intent of the proposed rule changes shifts the workload of the Applicant Violator System to the states. For example, under Section 778.11, if the applicant does not identify all the controllers, the states would be burdened with the task to identify all of the controllers and determine their control relationships. Utah believes that it is critical that OSM preserve the disclosure of controller information that states require to make control determinations so that states don't have to undertake these investigations. As you know, Utah is currently under-funded to perform the required duties as a primacy state. This new requirement would be yet another function that would need to be funded.

Utah agrees with the removal of Section 843.12 regarding procedures for improvidently issued state permits as this allows the states to make the state permitting decision. The revisions of Sections 847.11 and 847.16 would allow states the discretion to evaluate the severity of a violation and determination if alternative enforcement is warranted. These changes we believe are appropriate and Utah supports this.

Section 774.12 proposes adding a new paragraph requiring the permittee to provide "written notification to the surety, bonding entity, guarantor, or other person that provides the bonding coverage currently in effect". The states would be burdened with the responsibility to insure that the written notification was provided to the sureties and would have to take an enforcement action if the permittee did not. Additionally, if the states fail to take a compliance action, it is not clear what impact this would have on the future viability of existing bonds.

Thank you for the opportunity to provide comment. If you have any questions regarding these comments, please contact us.

Sincerely,

Mary Ann Wright
Associate Director, Mining

CC: Pam Grubaugh-Littig; Sheila Morrison; Susan White; Wayne Hedberg