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UTAH MINING ASSOCIATION

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Sent By U.S. Mail & Email

John Baza, Director
Division of Oil, Gas & Mining
Dept. of Natural Resources
State of Utah
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Salt Lake City, UT 84114-5801

2008 General ^α

Re: Performance Audit of Utah's Coal Regulatory Program

Dear Mr. Baza:

On behalf of the Utah Mining Association and particularly the informal coal rules group of the Utah Coal Operators Committee, I want to express our sincere appreciation for your efforts in facilitating the discussion of potential changes to Utah's Coal Regulatory Program over the past year. We appreciate the fact that three proposed rule changes -- sealing of wells, catch all statements, and intermittent streams -- are now being considered by the Board of Oil, Gas & Mining for implementation based upon activities and joint meetings that have occurred over the past year. We sincerely appreciate these efforts by the Division staff and look forward to working with you as proposed rule changes progress through the formal rule making process.

Since its release in December, the coal operator representatives of the Utah Mining Association have reviewed in some detail the "Report to the Utah Legislature No. 2007-15 - A Performance Audit of Utah Coal Regulatory Program." We believe the audit identified a number of areas in which the Division and the coal operators can work in a cooperative way to insure that Utah's coal regulatory program is appropriately implemented, while insuring that Utah's natural resources are adequately protected. In this regard, we want to express our willingness as an Association to participate with you in a smooth transition to a program that implements the recommendations of the Performance Audit.

Based upon our review of the recommendations contained in the Performance Audit, we believe it would be appropriate to organize a committee composed of coal operators and representatives of the Division to outline a "blue print" for the implementation of the recommendations contained in the Performance Audit. Among the issues the Committee could consider would be a more detailed analysis of the regulations to insure they are properly implemented and the creation of a timeline within which to accomplish the audit's recommendations.

As we have reviewed the recommendations contained in Chapter V of the Performance Audit and based upon the comments of Mr. Styler during the presentation of the audit to the Legislative Audit Subcommittee, we also express our willingness to work with you to evaluate the funding options discussed in Chapter V including the possibility of the implementation of coal program fees.

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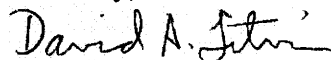
Since we feel that the Performance Audit addresses the issues we had raised in the context of the "permit area vs. adjacent area" discussion and because of the formal rule making already proposed, the only remaining issue discussed by our informal coal rules group relates to third-party encroachments. Based upon discussions within the coal operators group, we feel it is appropriate at this time to identify this issue as one requiring further discussion, but we do not propose that any immediate action be taken to further resolve this issue.

Specifically, the coal operators are evaluating other possible methods to resolve this matter short of a formal rulemaking process. In part, we feel that the coal operators themselves could take actions directed towards insuring that third-party encroachments do not occur without the knowledge of the coal operator. Among the actions we are considering would be the possibility, once a permit is issued, that the operator would record a "Notice of Permit" in the records of the applicable county based upon an affidavit that would put all third-parties on notice of the fact that the lands within the areas of the permit are subject to the requirements of the surface coal mining act. Another possible action that could be taken by the operators would be to involve the County Planning and Zoning process prior to the time any activities are authorized within the area of the approved permit.

Although these actions would not completely resolve our concerns, they offer a means of at least having something of record regarding the permitted land use under the mining regulations in the county records. Hopefully, others with valid existing rights would acknowledge the presence of the coal permit and contact the coal permittee and the Division before conducting surface disturbing activities within the area of the permit. We still need to come up with a simplified means of dealing with this issue to ensure the least amount of work by both the coal permittee and the Division. For this reason, we encourage further discussion to find a more comprehensive resolution.

Again, we appreciate your efforts to implement the recommendations of the Performance Audit and look forward to working with the Division on these important matters.

Sincerely,



David Litvin
President

cc: Mike Styler
Robyn Pearson
Mary Ann Wright
Ted Himebaugh