



## UTAH MINING ASSOCIATION

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November 18, 2008

Mr. John Baza  
Director  
Division of Oil, Gas & Mining  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

Re: Legislative Audit Report and  
Proposed Coal Mine Permit Fees

Dear Mr. Baza:

Thank you for your letter of October 29, 2008, which formally advised the Utah Mining Association of the status of the Division's Coal Regulatory Program as a result of the December 2007 Legislative Audit Report; and also set forth a number of proposed new coal mine permit fees which are scheduled for discussion before the Natural Resources Interim Committee on November 19, 2008.

The coal members of the Utah Mining Association applaud the Division's prompt implementation of the recommendations of the Legislative Audit Report. We have reviewed the Division's response to the recommendations of the Legislative Audit Report and concur with the implementation of ten of the recommended 11 actions, except for recommendation number 11 – coal mine permit fees – which is discussed below.

I appreciate you informing the Utah Mining Association of the Division's proposed implementation of new permit fees for Utah's coal mine operators in response to the Legislative Audit Report recommendation that "DOGDM devise a fee structure and present it to the Legislature for their consideration." The Division's current and proposed coal mine fees are as follows:

Division's Existing and Proposed Coal Mine Fees		
Type of Fee	Existing Fee	Proposed Fee
New Application	\$5.00	\$6,000
Annual Fee Active Mines/Facilities	\$ 0	\$8,000
Annual Fee Inactive Mines/Facilities	\$ 0	\$4,000

On Thursday, November 6<sup>th</sup>, Utah's coal mine operators met to discuss the Division's proposed new coal mine fees. There was unanimous opposition to the implementation of the Division's proposed new coal mine permit fees based on the following:

1. Even though the appropriateness of the existing coal mine application fees of \$5.00 may need to be reviewed, no justification has been made by the Division of the need for the excessively higher proposed fees, nor has the Division indicated how Utah's Coal Regulatory Program would be improved. To increase the coal mine application fee from \$5.00 to \$6,000 -- over a 1,000 fold increase -- and to impose an annual fee of \$8,000 for active mines and \$4,000 for inactive mines, appears blatantly excessive and punitive on its face.
2. Utah's coal mining operators already pay a substantial number of fees including royalties on coal produced from federal lands -- half of which goes to the State of Utah; abandoned mine land fees, black lung fees, corporate income taxes, property taxes, and employee wages which are subject to income taxes.
3. Utah's coal mining industry in 2007 provided nearly \$560 million of export revenues to the State of Utah -- which is one of the largest individual sectors -- and provides one of the highest paying employee wages of any industrial sector.
4. The Division's proposed coal mine fees are substantially higher than the Division's existing hard rock mine fees which were last adjusted in 2002, as shown below:

<b>Utah's Mineral Program Fee</b> (excluding coal)	
Exploration	\$ 150.00
Small mining annual	\$ 150.00
Large mining annual for 5-50 acres	\$ 500.00
Large mining annual for > 50 acres	\$1,000.00

5. From our review, it appears that the Division's proposed coal mine permit fees would be the highest of any state in the United States. For example, the Division's proposed coal mine application fee of \$6,000 is more than double any existing application coal mine fee in the United States. New Mexico and Colorado have the highest -- around \$2,500 -- and Wyoming's maximum permit fee is not to exceed \$2,000. See attached table of coal mine permit fees in other states. Our review further indicates that no other coal states have annual permit fees for coal.
6. With the global recessionary pressures facing the United States, and the adverse impact of global climate change on coal usage, it is an inappropriate time to be increasing fees on Utah's coal industry.
7. Lastly, the Division's Board of Oil, Gas, and Mining has not yet had an opportunity to review and act on the Division's new proposed coal mine permit fees.

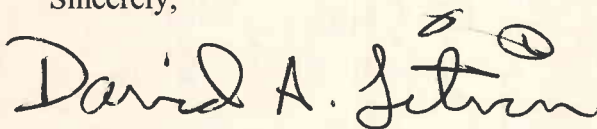
As you recall, after completion of the Legislative Audit Report in December 2007, the UMA offered to establish a working group with the Division to fully address the coal permit fee issue. It is unfortunate that no such group was formed, and that after the May 29<sup>th</sup> Castle Dale meeting, where the Division first discussed in general terms a coal fee proposal, no further substantive interaction between the Division and the UMA occurred on this matter until receipt of your October 29<sup>th</sup> letter.

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The Legislative Audit Report's recommendation suggestion for the Division to devise a coal permit fee structure was made without research into the fee practices of other coal states, which the UMA has now done. Our research suggests that both the Legislative Audit Report's proposed fees, as well as those of the Division are excessive. These proposed fees would clearly make Utah less welcome to coal mining than its neighboring states.

For the reasons stated above, the Utah Mining Association opposes the Division's proposed coal mine fees. If the Division needs additional funding for the coal mining program in any given year, we recommend the Division request that during the normal legislative process. Furthermore, if any coal mine permit fees are to be proposed there should be only an application fee comparable to other states and no annual coal mine permit fee. The Utah Mining Association would be happy to further discuss this matter with the Division to ascertain whether agreement can be reached on appropriate revised coal mine permit fees. Before such discussions take place, however, it would be premature for the Division to move forward with the proposed coal mine application or annual permit fees with the Utah Legislature.

Sincerely,

A handwritten signature in black ink that reads "David A. Litvin". The signature is written in a cursive style with a large, stylized initial "D". There are some small marks above the signature, possibly from a stamp or another signature.

David A. Litvin  
President

cc: Mike Styler  
Dana Dean  
Gayle McKeachnie  
Senator Mike Dmitrich  
Natural Resources Interim Committee  
UMA Coal Operators Committee

Attachment

## Coal Mine Permit Fees of Other States

Attachment

State	Application Fee	
Alabama	\$1,000	
Colorado	\$25	Additional \$10 per acre not to exceed \$2,500
Illinois	\$125/ bonded ac.(surface mine, payable over 5 years)	U/G mine facilities permit, \$5/ac X permit acres x 5 years
Indiana	\$100	
Kentucky	\$250	Plus \$50 for each acre of land to be affected by the operation.
Montana	Unable to locate on website	
New Mexico	\$2,500	Additional \$25 per acre for estimated area to be disturbed during first year of mining
Ohio	\$75 x number of acres estimated in the application which will comprise the area of land to be affected within the permit period	
Pennsylvania	\$250	
Utah	to be determined by agency	
Virginia	\$180	
West Virginia	\$1,000	
Wyoming	\$100	Additional \$10 per acre. (Max permit fee shall not exceed \$2,000)