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General Mine Correspondence
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U.S. DEPARTMENT OF OIL, GAS & MINING
United States Department of the Interior

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
Washington, D.C. 20240

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

JAN 24 2011

Dear Mr. Baza:

Thank you for the letter of November 23, 2010, from you and seven of your colleagues, concerning the preparation of a draft Environmental Impact Statement (EIS) in support of regulatory revisions being considered by the Office of Surface Mining Reclamation and Enforcement (OSM). I appreciate your participation in preparation of the draft EIS, and am grateful to you and your colleagues for volunteering to serve as cooperating agencies under the National Environmental Policy Act of 1969 (NEPA).

Please be assured that I take your concerns very seriously and am committed to providing you and the other cooperating agencies every feasible opportunity for input to the EIS. We acknowledge that our rulemaking and EIS schedules have created demands on your state and on the other cooperating agencies at a time when state staffs and resources are already stretched. I greatly appreciate the time and resources you and other state and Federal cooperating agencies are contributing to this effort. The detailed and substantive comments from the cooperating agencies represented by you and the co-signers of your letter have been most helpful to us in gaining a better understanding of the potential effects of various rulemaking options on your states and on your citizens. While we are committed to meeting the milestones in our schedules, we will make every effort to address the issues you raise and to ensure the opportunity for your continued review and comment as we move forward.

Your letter raises concerns about the quality and content of the draft sections of the EIS that have been reviewed by the cooperating agencies. These were early draft documents that normally would have undergone lead agency review before being shared with cooperating agencies. However, in keeping with our goal of openness and transparency, we have shared these initial drafts to give you an opportunity to identify any perceived gaps, raise other potential issues, and provide additional information that you believe should be addressed earlier in the process.

In response to your concerns about the quality of the initial draft EIS chapters, we have made changes to improve the products developed by the EIS contractor and to provide you with enhanced opportunities to review and comment on those products. These changes include the creation of work teams to ensure that OSM staff are directly involved in the integration of comments received on prior chapters and in the preparation of the critical analyses in Chapter 4 of the EIS (now available on OSM's Sharepoint site). We are also providing additional time for preparation of the Preliminary Draft EIS (PDEIS) to afford you some much-needed time for review and comment to improve the quality of the rulemaking documents and the EIS.

On January 12, 2011, OSM emailed state cooperating agency personnel a new EIS schedule specifying the revised due dates for review and comment and follow-up discussion of comments on Chapter 4 and the PDEIS. Under the revised schedule, cooperating agencies have until January 26 to comment on Chapter 4, and OSM will hold follow-up discussions with the agencies via conference call on January 31. The revised schedule also provides cooperating agencies until March 7 to comment on the PDEIS, with follow-up discussions with OSM scheduled for March 10. We remain committed to a meaningful discussion of comments with the cooperating agencies; however, given the number and nature of comments received on previous chapters, and in light of the time constraints, we will need to focus on the most substantive and consequential issues during these discussions.

You also requested an opportunity to review the chapters of the EIS that we revised following your initial review. While we continue to work on those chapters, we are primarily focusing on Chapter 4 rather than completing a new version of previous chapters. We plan to provide revised versions of the earlier chapters as part of the PDEIS, which we expect to forward to you by February 24, 2011, according to the new schedule. The majority of comments provided by our cooperating agencies have been forwarded to the contractor, with the exception of those that were of a more programmatic nature, duplicative of other comments, or not related to the specific topics of the chapters. Many of the comments we received included alternative language to explain concepts; referenced additional available reports, data, or professional papers; or focused on improvement of the document. These were particularly helpful to us. As lead agency for the EIS, we have worked diligently with the contractor to ensure that these and other valuable comments are being addressed appropriately within the document.

You also expressed concerns about the accessibility of supporting materials on the SharePoint site. We have activated the site, posted some of the comments, and requested that cooperating agencies test the site for review of materials. You will be notified when we post additional documents for your review and input, such as the comments we hope to receive on Chapter 4, now that it is available on the site. If there are specific documents that you need to access before they are posted on SharePoint to facilitate your review, please contact us, and we will try to make them available in some other manner.

Your letter noted that the chapters of the EIS previously reviewed by the cooperating agencies drew heavily on existing documents without integrating them into one coherent document. We appreciate this concern and will focus on integrating available data and studies more effectively, as well as properly analyzing all alternatives to ensure that the EIS fully and thoroughly addresses the pertinent issues. We also invite you to contribute data or citations that you consider relevant to the analyses in the draft EIS, particularly if you believe they improve the discussion of the resources or impacts in your state. We would appreciate any comments you might have identifying missing information or improper characterizations of your State's coal mining industry, resources, or regulatory program. In particular, we would appreciate the benefit of your expertise and experience in evaluating the analyses contained in Chapter 4.

Your letter expressed concern that OSM has not contacted states regarding estimates of time and resources necessary to implement the proposed rule. We have prepared a draft of these estimates as required under the Paperwork Reduction Act, and will make that document available for your review and comment when the proposed rule is published.

You also indicated concerns about how your participation and comments as cooperating agencies would be characterized. The draft EIS will not include specific details of comments that you provide as a cooperating agency; however, once the draft is made available for public comment, additional comments you or anyone else provide will be captured and responded to in the final EIS. Your participation as a cooperating agency under NEPA does not mean that you endorse conclusions of either the draft or final EIS. Rather, it indicates that you have provided input consistent with the terms of the MOUs we entered into.

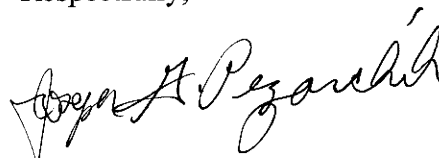
You also requested an opportunity to prepare jointly with OSM a statement to accompany the draft EIS describing the nature of your participation as cooperating agencies. We welcome the opportunity to work with you on such a statement.

I value your participation as a cooperating agency and consider your input important to completing this process thoughtfully and thoroughly. Please accept my thanks for your continued assistance in the development of the EIS and your commitment to our partnership in carrying out the Surface Mining Control and Reclamation Act.

If you have any questions, please feel free to contact me or John Craynon, OSM Stream Protection Rule EIS team leader. Mr. Craynon may be reached at 202-208-2866 or jcraynon@osmre.gov.

An identical response is being sent to the other signatories to your letter.

Respectfully,



Joseph G. Pizarchik
Director