

envirosphere company

A Division of EBASCO SERVICES INCORPORATED

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May 18, 1983

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**DIVISION OF
OIL GAS & MINING**

Mr. John Lovell
Office of Surface Mining
Branch of Procurement
1100 L Street NW
Washington, DC 20005

Dear Mr. Lovell:

Re: Technical Review Assistance Related to the Mining and Reclamation Plan
for Belina Complex, Valley Camp Coal Company, Carbon County, UT
Contract #J5120096, Task Order #HDQ-006

As we discussed on the phone subsequent to our meeting in Denver of April 19, 1983, Envirosphere has decided not to accept any extension to the above mentioned contract task order. I understand that this is mutually agreeable with you and will thus terminate our work on this project. I will be transmitting a final invoice shortly.

We feel that a number of the criticisms and comments regarding our work on this project that were brought up during our Denver meeting require a written response from Envirosphere. The attached document provides our comments on OSM's and DOGM's review of our performance. In summary we find OSM and DOGM's comments to be highly inaccurate and unfounded, and our response details specific examples.

In particular we have addressed a number of groundless charges made in the letters from James Smith of Utah DOGM (apparently prepared by Mr. Tetting) to Sarah Bransom of OSM and in two of Ms. Bransom's internal memos dated March 1 and 31, 1983.

My personal feeling is that the entire exercise was unproductive in every sense, and that no one could have benefitted professionally from it.

Sincerely,

Frank B. Titus

Frank B. Titus, Ph.D.
Manager
Denver Regional Office

FBT/slr
encl.

cc Robert Schueneman, OSM, Denver
Walter C. Swain, OSM, Denver
Sarah Bransom, OSM, Denver
James W. Smith, Utah DOGM
Thomas N. Tetting, Utah DOGM

May 18, 1938

RESPONSE TO OSM/DOGM COMMENTS
ON ENVIROSPHERE PERFORMANCE ON BELINA MRP REVIEW

Envirosphere Company has prepared this document to respond to comments made by OSM and DOGM personnel regarding our performance on the review of the mining and reclamation plan for Valley Camp's Belina Mine Complex in Utah. Envirosphere was first made aware of such comments at a meeting on April 19, 1983; and in fact was unaware of any agency dissatisfaction until this meeting was called. We feel that most of the comments made are inaccurate and/or unfounded, and therefore we provide this response.

We feel that our performance on this project resulted in a technically accurate and professional analysis of the subject MRP. In cases where changes in format or procedure were requested specifically and in writing by OSM, Envirosphere complied promptly and effectively by making the requested changes. However, it is noted that in several cases internal memos and conversations within OSM were not passed on to Envirosphere and thus we had no opportunity to satisfy OSM and DOGM preferences. We feel that many of the items perceived as problems by OSM actually resulted from relatively minor differences of interpretation between OSM and Envirosphere, which could have been quickly resolved if they had been immediately brought out by OSM rather than being allowed to continue until they were perceived as major problems.

Envirosphere's approach to this project included prompt response to OSM requests and to new data submissions despite the fact that instead of a contract period of 12 weeks the project has run 9 months without totally completing even the ACR, due to delays caused by Valley Camp and OSM. In each case where changes were requested or new data needed to be analyzed, Envirosphere completed the needed work and submitted its written report within at least two weeks. Based on this response time, and in light of the usual one to two month review period taken by OSM and DOGM prior to submission of ACR materials to Valley Camp, we feel that any "serious format problems" could have been easily resolved within the project schedule if they had been brought to our attention.

Response to letter from James W. Smith (Utah DOGM) to Sarah Bransom (OSM) of March 4, 1983

Envirosphere feels that this letter makes a number of groundless charges and very inaccurately assesses our performance with regard to our review of the apparent completeness of the Belina MRP in light of the submission of the Gates Engineering Report. In particular, Envirosphere takes strong exception to DOGM's assertions regarding the thoroughness, accuracy and format of our review. According to Ms. Bransom's March 31 memo documenting our performance (see later), she had a telephone conversation with Tom Tetting of Utah DOGM on March 3, at which time he stated that he was dissatisfied with our review of

the Gates Engineering Report since he felt it was poorly written and extremely cursory and did not follow DOGM guidelines for conducting the completeness review. In Mr. Smith's March 4 letter, apparently prepared by Mr. Tetting for Mr. Smith's signature, the same report is referred to as circuitous. We find these comments very difficult to understand in light of our report and other actions taken by DOGM and OSM as described in the following paragraphs.

In her March 31 memo, Ms. Bransom indicates that on February 10 OSM received the Gates Engineering Report from Valley Camp and told us to initiate a review of that report for apparent completeness. We note, however, that although the apparent completeness review is intended to be a joint document by OSM and DOGM, Mr. Tetting's analysis and apparent completeness review of this report was transmitted to Mr. Trevor Whiteside of Valley Camp on February 7, three days prior to OSM even receiving the report. Thus, when EnviroSphere first received the Gates Engineering Report, a letter was already on its way to Valley Camp from Mr. Tetting indicating that the Gates Engineering Report provided the information necessary to complete Section UMC 783.14 of the MRP. In this apparent completeness review by Mr. Tetting, the analysis of completeness for UMC 783.14, Geology Description, in its entirety is: "The applicant has completed this section with the submittal of the Gates Engineering Geology Report." EnviroSphere notes that there are several inconsistencies between Mr. Tetting's letter of February 7 to Valley Camp and Mr. Tetting's critique of EnviroSphere's work on March 4. These are as follows:

1. Despite Mr. Tetting's criticism of EnviroSphere's work for not following a proper format for an ACR, as supposedly specified by Pam Grubaugh-Littig's letter of August 18, 1982, he also did not follow this format in his ACR response.
2. Mr. Tetting's ACR response given for UMC 783.14 states only that this section is complete because the Gates Engineering Geology Report has been submitted. No analysis had been provided to indicate where, or whether, the specific data previously requested by DOGM has been included. In fact, we note that the data which DOGM previously requested, and had judged essential for document completion in its initial ACR of October 20, 1981, was not contained in the Gates Report. Thus, the geology description section of the MRP should not have been judged complete at this time. This was pointed out in EnviroSphere's thorough and critical evaluation of the Gates Engineering Report, and is stated in our February 25 ACR addendum report transmitted to Sarah Bransom of OSM. It is our position that mere submission of a report does not in itself constitute completeness. This is partially based on comments by Ms. Bransom on our July 19, 1982 review, which she criticized for not documenting and justifying the findings of completeness.

We believe that a comparison of Envirosphere's and Mr. Tetting's analysis of the Gates Engineering Geology Report will clearly show that our analysis was thorough and responsive to previous comments by DOGM in their earlier ACR, while Mr. Tetting's analysis was indeed cursory and did not identify data and information still missing from the mine plan.

In the March 4 letter, DOGM also appears to be concerned that the format of Envirosphere's final ACR does not conform with the format contained in a letter from Pam Grubaugh-Littig dated August 18, 1982 which has been represented in Ms. Bransom's memo of March 31, 1983 as being "guidance" for formatting of the ACR. The referenced letter was indeed transmitted to Envirosphere by OSM; it was not, however, accompanied by any form of transmittal letter or specific verbal instructions suggesting that it be used as guidance for the format of the ACR. The contract conditions in the Basic Ordering Agreement, Section G-4, clearly indicated that all guidance will be transmitted to the contractor by OSM in writing. Since the referenced letter was received without attachments of any kind, Envirosphere understood it was being transmitted for information purposes only and to include some minor DOGM comments related to a spot check of our ACR. Despite this, we note that the only substantive differences between the format used by Envirosphere, and that in the Grubaugh-Littig letter, is the use of a paragraph heading entitled "Apparent Completeness" and a restatement of the original DOGM questions. In virtually all cases Envirosphere's responses were organized so as to specifically coincide with individual paragraphs requesting additional information within DOGM's original ACR.

Responding to paragraph two of the referenced March 4 letter, Envirosphere did indeed suggest Division review of applicant's response to an initial ACR request for information. The basis for this suggestion was not, as DOGM suggests, the result of negligence in document preparation but rather to insure applicant's complete response to the question initially posed by DOGM. The initial question was as follows: "In order for the mining plan submitted to be complete with regard to the USGS 211 plan, it should contain all the information contained in earlier submittals and/or approvals." Since Envirosphere had not seen the earlier material, and therefore could in no way insure that all the information contained in earlier submittals and/or approvals had been included, it was Envirosphere's position that the individual at DOGM posing this question would be better able to evaluate the applicant's response than was Envirosphere. We note that Mr. Tetting's ACR of February 7 made no mention of the USGS 211 plan material requested previously. DOGM has thus failed to evaluate the new submissions with regard to these materials.

Response to Sarah Bransom memo of March 1, 1983

In this memo, Ms. Bransom states that there have been three problems with Envirosphere's performance on the Belina Task Order. It should be noted that Envirosphere was never apprised of any of these problems, either verbally or by written correspondence. In her first point Ms. Bransom states that a

meeting with Utah DOGM revealed problems with our ACR reports. This meeting was apparently held on February 2, 1983, although we have not been given information regarding specifics of the problems noted. Since the latest ACR submitted by Envirosphere at that date was on December 10, 1982, we believe that if any errors had been pointed out during the intervening two month period, all necessary corrections could have been made by the time of the meeting. Since we were not apprised of any problems with our report, we had no opportunity to make necessary modifications. Furthermore, as discussed previously, no specific format and guidelines were provided at the initiation of the contract.

In Item 2, our proposed methodology for analysis of completeness with respect to the 211 mining plan and other pertinent materials was questioned. We have addressed our reasons for requesting DOGM review earlier in this document.

In Item 3, Ms. Bransom states that progress reports were not submitted for January and February. We note, however, that contrary to this statement a joint January-February Progress Report was submitted to Ms. Bransom on March 3. We feel that this is a very timely submission of a progress report for work just completed. The January and February progress reports were combined due to the extremely slow progress on this project as a result of delays in submissions and reviews by Valley Camp, DOGM, and OSM.

Response to Sarah Bransom memo of March 31, 1983

In this memorandum, Ms. Bransom purports to provide a chronology of events during the course of the subject task order. Envirosphere has found numerous errors, inaccuracies and inconsistencies in this memo and is providing comments on these in the following paragraphs. We believe that her errors and omissions in a document which claims to be the basis for terminating our Task Order are very significant; even the Task Order award date has been incorrectly stated as June 15, 1982, in fact, our proposal for this Task Order was not due until June 29, 1982, and a signed contract was not executed by OSM's contracting officer until July 6, 1982.

In the second item #3, an agreement to weekly contacts is mentioned. These contacts were maintained on a weekly basis by Envirosphere with OSM's TPO during the active period of preparing the initial ACR and while the project was actively moving forward. As the work stretched well beyond the initial performance period due to delays in actions by OSM, DOGM and Valley Camp, Envirosphere began issuing monthly and bi-monthly progress reports to satisfy the intent of the contract in keeping the OSM TPO adequately informed of progress on this Task Order.

In item 5 Ms. Bransom states that Envirosphere has done an adequate job but that DOGM concluded that our review of soils was unsatisfactory. In reviewing Ms. Pam Grubaugh-Littig's letter of August 18, which Ms. Bransom is apparently referring to, we note no statement whatsoever indicating an unsatisfactory job

by EnviroSphere. Thus, we are uncertain as to how Ms. Bransom has reached this conclusion regarding DOGM's assessment. As we have previously indicated, there was also no clear statement that the letter was intended to provide the "preferred format" which we were to use on our apparent completeness review.

In Item 6, Ms. Bransom states that DOGM revised and reformatted our ACR report and sent it to Valley Camp; a similar statement is also made in Item 14 of her memo. We note that while this is highlighted at various places as an example of our allegedly inadequate work on this project, the only changes made to our ACR by DOGM or OSM are extremely minor in nature (e.g., spelling out abbreviations) and in fact in many cases these changes have introduced errors in punctuation, spelling and/or meaning to our original report.

In Item 9 it is stated that we were reluctant to communicate on the schedule for reviewing new information. This statement is accurate; however, it should be viewed in light of the fact that on the date of this telephone conversation between the TPO and the EnviroSphere Project Manager, EnviroSphere had not yet received the additional materials that Valley Camp had submitted on November 8. Thus, it would be very difficult to provide OSM with a schedule for reviewing an unknown quantity of material. Despite this fact, Ms. Bransom's own schedule of events shows that EnviroSphere expeditiously completed the review of the new material and submitted a report on it by December 10, an elapsed time of only eight working days after receiving the reports. We feel that this type of response time indicates our professional approach to this project and our ability to respond quickly despite long delays between active periods, caused by others. It should be further noted that prior to the November 30 contact by the TPO, EnviroSphere had not been informed as to when the additional materials from Valley Camp might be available. Thus, we were forced to make sudden adjustments to schedules of our professionals in order to respond quickly to these submissions.

In Item 12, Ms. Bransom indicates that there has been a problem with Valley Camp interpreting EnviroSphere's report. (We assume she is referring to our December 10 report, since no report from EnviroSphere was submitted on November 30.) We note, however, that apparently prior to transmittal of this to Valley Camp, neither OSM nor DOGM had any problems with interpreting the report since no questions or comments were made to EnviroSphere. These same comments can be made on Item 13 since again no comments or criticisms have been received by EnviroSphere. A meeting memo dated February 11, 1983, from Ms. Bransom to the Valley Camp file on the February 2 meeting does not substantiate claims of major problems being mentioned by DOGM or questions regarding clarity or interpretation of our work from Valley Camp as alleged in her March 31 project synopsis.

Items 15 and 16 again bring into question the procedures taken by OSM and DOGM on the review and completeness of the Gates Engineering Report. According to this memo, OSM received the Gates Engineering Report on February 10 and told EnviroSphere to initiate a review. We completed this review on February 25

and submitted our ACR Addendum to OSM and DOGM. However, based on information we now have, specifically Mr. Tetting's letter of February 7 to Valley Camp, we find that DOGM judged the Gates Engineering Report to be complete on February 7, three days before OSM received it and 18 days before we completed our ACR for the studies. We find this procedure to be highly unusual. As discussed previously, we also find Mr. Tetting's comments to the technical project officer on March 3rd to be baseless, particularly in light of the findings and format of his review of February 7, 1983.

Summary

Envirosphere has based this response on copies of documents from Ms. Bransom's files which she provided us on April 19, 1983 and in which she raises a number of criticisms of Envirosphere's performance. We note, however, that with the exception of very early correspondence in July of 1982, the documentation Ms. Bransom references is internal and few, if any, of Ms. Bransom's concerns were brought to our attention directly and in writing. We note that in the case of her concerns of July 1982, when she felt that an improper format had been used on the ACR and brought this to our attention, we corrected the ACR and had it reissued within one week of notification of her concerns. Our other conversations generally regarded minor corrections or addendums to our reports that OSM or DOGM felt were necessary. We felt that this was not an indication of unsatisfactory performance but rather the normal differences in judgment that are common in the interpretation of any technical material. Based on the limited written correspondence that we did receive, Envirosphere believed our performance on this contract had been satisfactory. In particular we note the memo we were given which was from Don Frickel, OSM hydrologist, to file dated August 20, 1982, documenting his review of the hydrology portions of our ACR in which he concludes that "the Envirosphere report reflects a thorough analysis of the applicants responses to the ACR comments". Based on internal documents that we are now provided it would appear that Ms. Bransom thoroughly documented internally her opinion that Envirosphere's performance was unsatisfactory, but chose not to apprise Envirosphere of these dissatisfactions as the contract proceeded. We feel that if these concerns had been brought out promptly and forthrightly, an ACR and technical environmental analysis meeting the requirements of all concerned could have been efficiently prepared by Envirosphere.