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United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
Suite 1200

505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102

May 9, 1994

Mr. James W. Carter, Director
Division of Oil, Gas and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

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To DARON WADDOCK	From D. CERUFFIN
Dept./Agency DOGM	Phone #
Fax #	Fax #

NSN 7540-01-317-7388 5089-101 GENERAL SERVICES ADMINISTRATION

Dear Mr. Carter:

*ACT/007/001 #2
Copy PAM*

The Albuquerque Field Office (AFO) is in receipt of your letter concerning the replacement bond on the Belina Mines provided by White Oak Mining and Construction Company. The Division of Oil, Gas and Minerals (DOGM) is requesting that AFO review the bond as to form and provide a notification of its acceptability to DOGM. I have asked the Western Support Center's (WSC) Bond Specialist to review the forms; however, based on previous oversight interaction on Utah's bond documents, I anticipate few problems beyond the concerns noted in the following discussion.

CONCERNS REGARDING FORM

The new Reclamation Agreement uses the acronym PAP to refer to the transfer application, whereas, in a normal DOGM Reclamation Agreement, PAP is in reference to the full permit application package. Since this is the legal document that secures the bond to reclamation at the site according to the PAP, which contains the approved mining and reclamation plan, it should reference the permit application package, not the transfer application.

The Reclamation Agreement indemnifies the company to reclaim minesites White Oak #1 and White Oak #2. Until a transfer package is approved that acts as official notice of a name change of Belina #1 and #2 to the above names, there are no White Oak mines.

ADDITIONAL CONCERNS

AFO's concerns are about both the permit transfer application package and the approval status of the site permit application package (PAP). AFO does not have

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a copy of the transfer application package. According to Darron Haddock in an April 29, 1994, telephone conversation, the transfer has not been approved yet but a copy would be sent. Also, AFO will need a copy of the permit issued to White Oak Mining prior to agreeing to releasing the bond.

As for the approved mining and reclamation plan for site operation, the AFO library does contain a 4 volume reformatted PAP submitted September 1993, but the library records do not indicate if this version of the PAP was approved. I have attached an excerpt from last year's oversight element specific review defining the history and scope of issues that were needing resolution. If DOGM rewrote the findings document when all issues were resolved documenting resolution of concerns, as required by R645-300-133, a copy of the findings document may alleviate our concerns.

CONCLUSION

You can understand AFO's confusion at this time. According to information at hand, OSM cannot be assured that the replacement bond is securely tied to an approved and fully accurate and adequate reclamation plan, nor has the Right to Mine and the attendant responsibility to reclaim the site, regardless of the site's name, been legally transferred.

Therefore, in consideration of the above, we cannot concur with a replacement bond at this time. AFO will cooperate as fully as possible as DOGM transmits further information and completes the transfer process to resolve our concerns. Any comments by the WSC bonding specialist will be transmitted to you immediately.

If you have any questions concerning these issues, please contact me or Donna Griffin at (505) 766-1486.

Sincerely,



Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

EXCERPT FROM THE 1993 ELEMENT-SPECIFIC OVERSIGHT REPORT

Belina Mine was issued a renewal stipulated to have the company address the deficiencies in the permit application package. This permitting action comes following a temporary 1-year permit. In a letter dated December 18, 1989, DOGM agreed to the temporary permit "conditioned upon the schedule for submission of information to address deficiencies. The schedule set forth in the Division's letter of October 31, 1989, required submittal of complete baseline and operation text and maps." The permit deficiencies to be addressed were first identified in 1987. (interoffice memo - S. Rathbun)

The July 11, 1990, renewal was stipulated as such:

Within 90 days of permit issuance, the permittee must adequately respond to all deficiencies as outlined in the May 11, 1990, letter from the Division to Mr. Walter Wright, Valley Camp of Utah, Inc.

Within 90 days of permit issuance, the permittee must adequately address all concerns as outlined in the June 8, 1990, letter from the Division of Oil, Gas and Mining from the U.S. Forest Service, Manti-La Sal National Forest.

The first is a 54 page document that defines deficiencies across the range of material needed for a complete and accurate permit. The Forest Service's 5-page letter expresses that agency's concern regarding a reclamation plan for the subsidence that has occurred, inappropriate surface ownership and land use information, subsidence monitoring, extent of underground workings information, protection of perennial streams, insufficient geologic and hydrologic information, and water quality and quantity.

By letter January 16, 1991, DOGM released the operator from meeting the 90-day time frames in stipulation 1 & 2 because DOGM was unable to complete a review of the material submitted thus far.

On March 13, 1992, DOGM sent a list of deficiencies still existing with the mine plan material. This letter stated that these deficiencies "have now been rolled into the mid term review which you are required to respond to by December 4, 1992." On November 25, 1992, DOGM granted the company an extension until January 18, 1993. At the time of the site visit, April 13-16, 1993, all technical issues had not been resolved, nor had the permit been recognized as completely accurate.