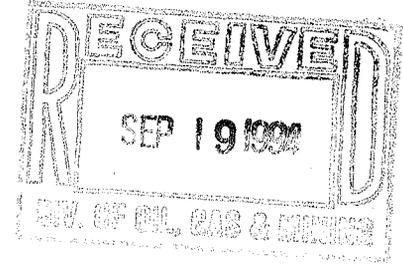




United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Suite 1200
505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102

September 16, 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

Dear Mr. Carter:

This letter concerns recent trends observed by the Albuquerque Field Office (AFO) regarding White Oak Mining and Construction Company, Inc. (White Oak).

As discussed with you during the quarterly meeting of August 8, 1994, AFO found that the number of discretionary waivers with no proposed civil penalty assessments on enforcement actions increased from 2 in EY 1992 and EY 1993 to 12 in EY 1994. Five of these 12 discretionary waivers during EY 1994 were given to White Oak (42 percent).

During the week of September 9, 1994, AFO reported the enclosed statistics to the Office of Surface Mining Reclamation and Enforcement-Headquarters concerning DOGM's civil penalty assessments. AFO found that 44 percent of DOGM's reduced civil penalty assessments went to White Oak (see enclosure).

Also, as AFO discussed in the EY 1994 Annual Evaluation Report, DOGM has failed to do the required pattern of violations (POV) review required by the State program for EY's 1994 and 1993. The report focused on Sunnyside Coal and Sunnyside Co-Gen Mines. However, a recent review of the EY 1994 enforcement actions against White Oak reveals the potential for both Administrative and Hydrologic Balance POV determinations based on "three same or similar violations within a 12-month period" criteria of your program. Note: During the quarterly meeting, you stated that you have completed your POV review for EY 1993 and would initiate a review of the enforcement data for EY 1994. Please send me a copy of your findings as quickly as you can. I would like to resolve this concern expeditiously.

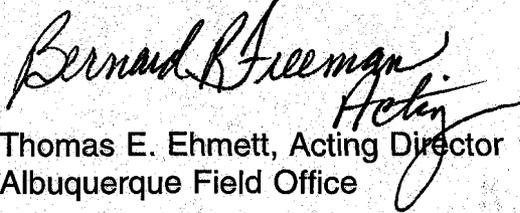
Mr. James W. Carter

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AFO is concerned by DOGM's pattern of treatment towards White Oak. AFO is concerned because these conditions of reducing civil penalty assessments, surface and subsurface drainage problems at the mine, the failure to review for POVs, permitting problems, and a company in apparent financial difficulty, are similar to the conditions that were identified preceding the Sunnyside bankruptcy. I would like to avoid a situation similar to what happened at the Sunnyside Mine.

AFO requests that you review these problems with the White Oak mining operations and discuss with me a plan of action or any assistance necessary to resolve this problem. Please call me with any questions on this issue. I look forward to discussing and resolving this issue with you as quickly as possible.

Sincerely,


Thomas E. Ehmet, Acting Director
Albuquerque Field Office

Enclosure

CIVIL PENALTY ASSESSMENTS
(Evaluation Year 1994)

STATE	PROPOSED CIVIL PENALTY ASSESSMENT	FINAL ASSESSMENT	AMOUNT COLLECTED
Alabama			
Alaska			
Arkansas			
Colorado	\$ 169,000	\$ 43,400	\$ 19,900
Illinois			
Indiana			
Iowa			
Kansas			
Kentucky			
Louisiana			
Maryland			
Missouri			
Montana			
New Mexico	∅	∅	∅
North Dakota			
Ohio			
Oklahoma			
Pennsylvania			
Texas			
Utah	\$ 46,060 *	\$ 17,290 ①	\$ 11,270
Virginia			
West Virginia			
Wyoming			

* 5 violations never rec'd proposed c. p. assessments
 ① \$12,800 reduced assessments for White Oak Mining