



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Kathleen Clarke
Executive Director

Lowell P. Braxton
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February 8, 2002

Congressman Jim Matheson
Congress of the United States
House of Representatives
125 South State Street, Room 2311
Salt Lake City, Utah 84138

Dear Congressman Matheson:

Thank you for bringing to my attention the issue raised by your constituent, Steve Tanner, February 5, 2002, concerning the adequacy of reclamation bonding at the White Oak Coal Mine, Carbon County, Utah. He had previously raised these issues directly with our Coal Regulatory Program, and I am also faxing our response to you.

Many of the issues raised by Mr. Tanner are at the heart of our programmatic responsibility when we regulate coal mines. I believe the letter enclosed establishes that the operational issues at this coal mine are being adequately addressed by the operator. We share the concern that these issues continue to be addressed, and I am confident that our field inspections will continue to ensure compliance by Lodestar Energy.

The Division of Oil, Gas and Mining shares the same concern regarding adequacy of operational and reclamation bonding raised by Mr. Tanner. We have served Lodestar Energy notice that replacement of the Frontier bonds by a surety company that meets the requirements of Utah's Coal Regulatory Program is a priority for us. We have appeared in Federal Bankruptcy Court in support of this position, and are achieving a settlement that will preclude an injunction against Utah by this court. The settlement and our actions put Utah in a superior position to any other state Coal Regulatory Program in the United States vis-a-vis the bankruptcy of Lodestar and its surety Frontier.

While the issue of the bankruptcy of a coal mining company and the simultaneous bankruptcy of its surety company is indeed complicated, I hope you can appreciate the actions we have taken to protect citizens of Utah and the environment both in the field and in the courts.

Please advise if I can provide you with additional information on this subject.

Sincerely,

A handwritten signature in cursive script that reads "Lowell P. Braxton".

Lowell P. Braxton
Director

dh
Enclosure
cc: M. A. Wright



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February 7, 2002

CERTIFIED MAIL

7099 3400 0016 8895 9802

Steve Tanner
2060 North 1345 West
Helper, Utah 84526

Re: Response to Citizen Complaint, Lodestar Energy Inc., White Oak Mine, C/007/001, Outgoing File

Dear Mr. Tanner:

On January 28, 2002 the Division received a written complaint from you with concerns about: 1) *the Failure of Lodestar Energy Co., Inc. to provide the State of Utah with a Performance Bond, and 2) the failure of the State of Utah to require Lodestar Energy Co., Inc. to provide adequate bond coverage to be in effect at all times, and 3) failure of the State of Utah to enforce the regulations in place to "Cease All Operations" of Lodestar Energy Co., Inc. after a 90-day grace period following the incapacity of a bank or surety company for reason of bankruptcy and insolvency.*

You raised the questions: *Has the State had notified the general public that in fact Lodestar Energy Co., Inc. is operating without a bond and also has the State required Lodestar Energy Co., Inc. and its Principals to provide Real Property Collateral Bond or an irrevocable Letter of Credit to cover the reclamation until such time as a Performance Bond is in Place? And, Furthermore, has the State had set a schedule for permit reviews and the reevaluation and adjustment of the bond amount?*

You also registered a complaint about "the ability to protect and maintain the quality of the water being discharged from the seeps and springs associated with both coal seams while the mining operation is being conducted prior to being discharged into Whiskey Creek, as well as the sediment pond size due to the redisturbance of the soil horizon and on the upper pad and the removal of structures and surface stabilizing features for the re-mining being conducted at the present time".

The question of the stability of the sediment pond and the adjacent water well on the Madison property was also raised in your complaint. You stated that, "since both are, as the State well knows, within a fault zone, what will the seismic effect of blasting have on these two structures."

Mr. Pete Hess, Reclamation Specialist III at the Price Field Office, called you on January 28, 2002 to attempt to set up a tentative date to conduct an inspection of the White Oak Mine site. You told Mr. Hess, however, that you declined the opportunity to conduct a field inspection of the site with the Division that day. Pete Hess conducted an inspection on February 5, 2002 as a result of your complaint and a copy of his inspection report is enclosed. No enforcement actions were taken as a result of that inspection.

This letter will address all of your concerns. I have grouped the responses as Bonding, Water Quality and the Sediment Pond Stability.

BONDING

The state of Utah has been quite active and proactive as a regulatory entity in the arena of reclamation bonding for some time. Beginning about two years ago, this division began the informal rulemaking process that finally culminated last summer in new rules requiring higher standards on bonds in the Coal Regulatory, Minerals Regulatory, and Oil & Gas Conservation programs. These new rules set standards for surety company ratings and for the listing on the federal Treasury surety guide.

The permit for the White Oak surface mine, issued in October 2001, was conditioned as required by the insolvent surety rules to give the state the appropriate notification on its insolvent surety. With much review, discussion and consideration, this division was assured of insolvent surety bond replacement, as a final resort by cash bonds, by the deadline date in January 2002. In December, 2001, the debtor-in-possession for Lodestar successfully obtained an injunction against the state of Kentucky and later against the Office of Surface Mining (for the program they run in Tennessee) to enjoin those two regulatory authorities from taking any type of enforcement action against Lodestar mines in KY and TN for operating with insolvent sureties. Come January, the debtor-in-possession was geared to gain the same mandatory stay against the state of Utah. Proactively, this division went twice in January to testify before the same judge in the bankruptcy court in Kentucky. As a result, by Utah's strong actions, a settlement has been forged with the debtor-in-possession and the post-petition finance company to produce replacement bonds for the two Lodestar Utah mines. In summary, I believe this division has set the state of Utah and its public in a much more secure position than it was a month ago, and certainly well ahead of where it might have been in this matter.

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To answer your last question on bonds, the bond was re-evaluated in October 2001 prior to issuing the surface mining permit. As you know, the permit is reviewed both at midterm (2.5 years) and at renewal (5 years) and at each permit change, of which there is one pending at current time. So, yes, of course, Steve, there is a very definite schedule of permit review.

WATER QUALITY

The citizen complaint raised the following concern; *"the ability to protect and maintain the quality of the water being discharged from the seeps and springs associated with both coals seams while the mining operation is being conducted prior to being discharged into Whiskey Creek"*.

There are no seeps or springs that regularly discharge in the area designated for surface mining. The geology generally dips away from the surface and towards the mine workings, which also reduces the likelihood of springs or seeps emanating from the area of surface mining.

The material\rock to be disturbed during surface mining has been tested for Acid/Toxic potential, and any potentially toxic units have been identified. The disturbed areas are tested on a regular basis to ensure water quality is maintained.

SEDIMENT POND STABILITY

The citizen complaint also had the issue of *"sediment pond size due to the redisturbance of the soil horizons on the upper pad and the removal of structures and surface stabilizing features for the reining being conducted."*

All water entering the area disturbed by surface mining will be treated prior to discharging into Whiskey Creek. Sediment Ponds Dugout D-1 and Pond 004A have the design capacity to store runoff for the entire surface disturbance area, even though contemporaneous reclamation is planned and the entire area should not be disturbed all at once. The designs of the Ponds were based on a 10-year, 24-hour storm event. To demonstrate the capacity of the sediment ponds, SEDCAD 4.0 was used (with the appropriate variables; acreage, weighted curve numbers, and designed storm event).

There was also concern relative to the stability of pond 004 and the adjacent Madsen well. *".....there is a question of the stability of the sediment pond and the adjacent water well on the Madison (Madsen) property. Since both are, as the State well knows, within a fault zone, what will the seismic affect of blasting have on these two structures?"*

Pond Dugout D-1 has a stability factor of 2.8, which exceeds the 1.3 minimum requirements. Since the pond is incised, the Permittee is allowed to keep the pond stable during construction. The pond has a safety factor of 7.02 against sudden drawdown. All ponds are inspected by a registered professional engineer on a quarterly basis.

The surface elevation at the toe of the impounding embankment for pond 004 is 8,850 feet above sea level. The elevation of the spillway is 8,874.5 feet.

Your concerns are relative to the potential effect of ground vibration from the blasting operations on pond 004 and the Madsen well. The elevation of the well head is at 8,828 feet. Both the pond and the Madsen well are below the floor elevation of the lower O'Connor coal seam (8,945 feet), which will be the lowest point of borehole depth. Ammonium nitrate works in the following manner; upon detonation, a detonation wave travels up the borehole. As this occurs, a compression wave fans out away from the borehole in a radial fashion, with the majority of the energy traveling the path of least resistance (toward the free faces, i.e. the bench area). When the compression wave reaches air, it encounters a huge amount of resistance, which causes it to rebound into the burden material. This rebound converts the compression wave into a tensile wave, which breaks the burden as it travels back through it.

During a January 10, 2002 meeting with the Division, Lodestar Energy, Inc., Questar, and Bradley Safety Consultants, Mr. C.W. Bradley, who teaches Blaster Training on contract to the State of Utah, calculated the maximum peak particle velocity which would develop during the utilization of ammonium nitrate and fuel oil blasting agents at the Whiskey Creek site. The permittee has contracted Wolfe Management, Inc. who are certified blasters to conduct the surface blasting activities.

Using a 6.75 inch borehole diameter and a maximum explosive column height of eighty feet (average amount of interburden between the upper and lower O'Connor coal seams), Mr. Bradley determined that a maximum peak particle velocity of 0.3 inches/second would be developed per 8 millisecond delay, using a scaled distance factor of 55, which is the factor to be applied **without** seismic monitoring for a distance separating the blasting site from the nearest potentially affected structure (301 to five thousand feet).

The allowable maximum peak particle velocity for the Whiskey Creek site, as determined through the utilization of R645-301-524.642, (use 301 to 5,000 foot distance from blast site) is 1.00 inch per second per 8 millisecond delay. Thus the utilization of the blasting agent on a 16 X 25 foot pattern will generate a maximum peak particle velocity which is one-third the maximum allowable limit as approved within the Utah Coal Rules (R645 et al).

The path of least resistance and the amount of energy which will travel toward the free faces is the issue at this point. Only a minimum amount, if any, would travel below the pit area through any ground. Upon reaching air the energy would rebound into the rock areas. Since the

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Madsen well and pond 004 are below the floor elevation of the lower O'Connor seam, virtually no effect from ground vibration will be felt by either structure.

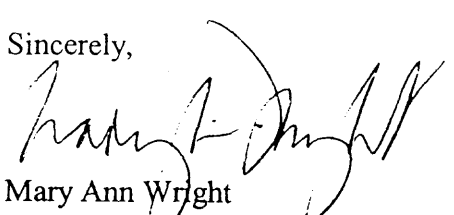
A concern relative to the fact that both the aforementioned structures are within a fault zone is appreciated, but creates no major issue as the State of Utah experiences on the average some two hundred seismic tremors each day. As the White Oak Mine's permit area is crossed by several faults, each probably moves a minimal amount in numerous directions in order to relieve the energy generated via the shifting of the earth's plates. It is when the faulted areas do not relieve the energy that seismologists develop major concerns due to the buildup of huge amounts of energy. This energy buildup may accumulate to a point, that when released, may create a major seismologic event within the Wasatch Plateau.

This area has also experienced numerous man-made seismic events from the secondary extraction of coal via longwall mining methods at the Canyon Fuel Company Skyline Mine.

The quarterly impoundment inspections, which are required for Pond 004 have not revealed any abnormal or hazardous conditions with the impounding embankment. Thus, the numerous seismic events which have occurred in the area have had no effect on this structure.

I hope this response has addressed your concerns adequately. You may request the Division Director to review this decision, under State of Utah R645 Coal Mining Rules, R645-400-240 (enclosed). This request for review needs to be in writing, and include a statement of how you are adversely affected and why the decision merits review.

Sincerely,



Mary Ann Wright
Associate Director, Mining

sm
cc: James Fulton, OSM-WRCC
Dave Miller, Lodestar Energy, Inc.
Price Field Office
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