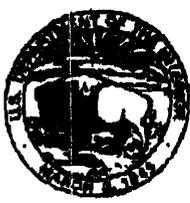


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United States Department of the Interior

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W. P. L.
INCOMING
0070001

October 22, 2003

MEMORANDUM

OPTIONAL FORM 90 (7-00)

FAX TRANSMITTAL		# of pages 2
To Pam G. LITIG	From Henry Austin	
Dept./Agency WT/DOGM	Phone # WR4/OSM	
Fax #	Fax #	

NEH 7-00-01 517-7300 5000-101 GENERAL SERVICES ADMINISTRATION

TO: Earl Bandy, Chief
Applicant/Violator System Office
OSM - Lexington

Bill Kovacic, FOD
Kentucky Field Office
OSM - Lexington, KY

Roger Calhoun, FOD
West Virginia Field Office
OSM - Charleston, WV

FROM: J.T. Begley, Field Solicitor
Office of the Solicitor
Knoxville Field Office

J. Begley

RECEIVED
OCT 22 2003

SUBJECT: *In re Lodestar Energy, Inc.*
proceedings in Bankruptcy Court and before the Settlement Judge

DIV. OF OIL, GAS & MINING

John Austin has been instructed by the Settlement Judge to submit a brief on some complicated legal issues on or before November 3, 2003. John will need a substantial amount of help from OSM in order to meet Judge Howard's deadline for submission of this brief and the agency's reply brief (due on November 10, 2003).

Thus far, approximately 15 attorney hours have been spent researching these legal issues over the last four business days (plus 14 more hours for two attorneys from this office to travel to and from the Settlement Meeting on October 20), and several more hours in attorney time will be spent on legal research before John can write the brief. OSM needs to supply the facts supporting and justifying the legal arguments to be made on the agency's behalf regarding the equitable

subordination of secured claims and the surcharging of secured creditors for the cost of reclaiming Lodestar's permits.

Here are the presently-identified facts that need to be reported back to me and Courtney W. Shea, Assistant Field Solicitor, as soon as possible:

- We need to know what sites in Kentucky and West Virginia pose an imminent harm to the health and safety of the public in OSM's opinion or in the opinion of the SRA in those states. We need to know the facts that support those opinions.
- We need a reclamation cost estimate, the amount of the reclamation bond posted for the site, and a list of the ways in which each imminent harm site fails to meet SMCRA's Title V standards.
- We need to have OSM collate the data already in hand and report on how much coal was produced from the imminent harm sites (on a permit-by-permit basis) before and during bankruptcy.
- We need to know the approximate amount of revenue derived from the coal produced at each of the imminent harm sites in Kentucky and West Virginia.
- We also need the same information for all of the "bad orphan sites" that in OSM's best judgment likely will not be transferred to any other permittees. Any site that OSM wants addressed in the Lodestar bankruptcy or in the Lodestar Settlement Meetings will need to be covered by OSM's report.

Depending on the outcome of the factual and legal research, we may have to add more items to the list. This is unavoidable.

SOL-KX is aware this request puts a tremendous burden on OSM's scarce resources. Unfortunately, this office does not have the ability to both write the brief and round up all the facts before the submission deadline set by Judge Howard.

Be aware that SOL-KX cannot advance legal arguments unless those arguments are supported by the facts known to OSM. Therefore it is legally and ethically imperative that OSM report on these crucial details well before November 3, 2003.