

PRICE RIVER COAL COMPANY

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orig J Smith
2cc Marye
1cc me
1cc Ron

February 3, 1984

~~Copy to Sue, Ma,
Debbie, Shan~~

CERTIFIED RECEIPT REQUESTED
Certified No. 562120

Mary Pam
RECEIVED
FEB 8 1984
Fol No. 2

Alan D. Klein, Administrator
Western Technical Center
Office of Surface Mining
1020 15th Street
Denver, Colorado 80202

JIM
FEB 09 1984
DIVISION OF
OIL, GAS & MINING

Dear Mr. Klein:

I am writing in response to your letters of December 9, 1983 and January 17, 1984 wherein you articulated OSM's "position" on the relationship between surface subsidence effects and the permit area at our mine complex. In your letters, you refer to an "OSM policy" requiring that any potential subsidence impact areas be included within the permit boundary. Since receipt of your letters, we met with members of your staff on this and other issues relating to review of our permit application.

As we clearly expressed to your staff, we know of no authority whatsoever to support such a policy. In your letter of January 17 you merely cite a state regulation in support of OSM's policy. OSM is apparently ignoring the fact that such a policy is directly contrary to OSM's promulgated regulations and its policies as previously expressed in various explanatory preambles to its past and present regulations. We assume that you are aware of OSM's final rulemaking of April 5, 1983 wherein it redefined the term "permit area" and expressly stated in a preamble thereto that the permit area did not include areas of potential subsidence. Moreover, OSM's original regulations of March 13, 1979, on which Utah's were based at OSM's insistence, were accompanied by explanatory preambles which clearly established a policy of not limiting the surface effects from subsidence to the permit area. In light of that rulemaking and clear expression of past and present regulatory intent, we can find no basis whatsoever for the policy announced in your recent letters.

Finally, we note that the new "policy" is completely inconsistent with the pre-SMCRA approval and existing rights which Price River Coal Company obtained from the United States Geological Survey for its mine plan under the preexisting regulatory program in 30 CRF Part 211.

OSM should consider the potential adverse impacts of this policy on the maximum efficient recovery of federal coal reserves and the attendant loss of significant income to the federal and state governments in the form of lost royalties on unmined coal. In light of the clear language of OSM's regulations, past policies, and statutory requirements of SMCRA, OSM should seriously reconsider and reject its recently announced "policy" regarding the surface effects of subsidence.

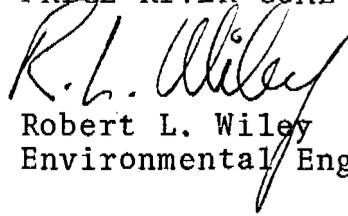


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Price River Coal Company has been in the past and continues to be cooperative in working with OSM in the review of its permit application, but regards the newly announced policy as clearly contrary to law and detrimental to the legitimate interests of the company and the economic interest of the federal government as owner of the coal to be mined.

Very truly yours,

PRICE RIVER COAL COMPANY



Robert L. Wiley
Environmental Engineer

RLW:jp

cc: K. Hutchinson, PRCC
G. Cook, PRCC
Walter Swain, OSM, Western Technical Center
Keith Kirk, OSM, Western Technical Center
Dianne Nielson, DOGM
Dave Maxwell, OSM