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January 15, 2002

VIA FACSIMILE AND FIRST CLASS MAIL

Elise Erler  
c/o Secretary, Board of Oil, Gas and Mining  
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RE: SUWA vs. Division of Oil, Gas and Mining, et al.,  
Docket No. 2001-027  
Cause No. C/007/013-SR98(1)

Dear Chair Erler:

This letter replies to Southern Utah Wilderness Alliances's (SUWA) January 14, 2001 letter to you arguing that SUWA's response deadline and the hearing date for the Division's petition for rehearing should be determined by the Board's general procedural rules at R641-104-140 and R641-105-100. Similar to the rule of Lord v. Shaw that specific allegations control and limit general allegations, specific regulatory requirements control and limit general regulatory requirements, i.e., if a matter is addressed *specifically* by a regulation, the specific regulation supercedes any contrary general regulation on the same subject. See See State of Utah v. Webster, 32 P.3d 976, 989 (2001) ("In determining which code section controls, 'we follow the well-accepted rules of statutory construction that the provisions must be harmonized with the legislative intent and purpose and that the more specific provisions . . . take precedence over and control the more general provisions.'" citing Forbes v. St. Marks Hosp., 754 P.2d 933, 935 (Utah 1988)); JJW v. State of Utah, 33 P3d 59. (When two statutes address the same subject, the more specific statute controls over the more general statute.)

The deadline for SUWA's response, the scheduling of the rehearing petition, and other procedural aspects of a rehearing petition are specifically addressed in the Board's regulations pertaining to "Rehearing and Modification of Existing Orders" at R641-110. See Division's

Elise Erler  
January 15, 2002  
Page Two of Two

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*Motion To Place Both The Remand Issues and Rehearing Issues On Board's January Hearing Agenda*, pg. 2. Based upon these regulations, it is appropriate to "act upon the rehearing at its next regularly scheduled meeting following the date of its filing." R641-110-400. The next regular meeting after filing is the January hearing. It would also be an efficient use of time and resources if the Board heard the issues on remand at the same time.

The Division also believes it would be helpful for the parties to know as soon as possible whether these matters will be heard in January, and recommends a conference call, if necessary, to decide the issue.

Very truly yours,



Kurt E. Seel  
Assistant Attorney General

cc: L. Braxton  
M.A. Wright  
J. Quigley  
J. Maycock  
Board of Oil, Gas and Mining

**CERTIFICATE OF MAILING**

I hereby certify that I caused a true and correct copy of the foregoing letter to Elise Erler to be transmitting via facsimile and mailed by first class mail, postage prepaid, on this 15th day of January, 2002, to the following:

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