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*Copy to Scherer if
she has no
for the hearing file
A.C. 1/23/78*

May 2, 1978

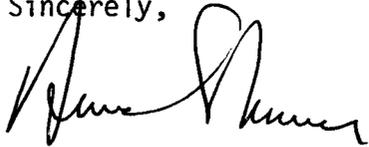
Cleon B. Feight
State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
1588 West North Temple
Salt Lake City, Utah 84116

Dear Mr. Feight:

Enclosed are plans to bring into compliance pre-existing, non-conforming structures at the #2, #3 and #4 mines as required by the new OSM regulations. We have not yet been able to bring these structures into compliance because of the harsh winter and complications arising from the coal strike. Therefore, we request an extension of time in which to bring these structures into compliance. We also request that persons from the Division of Oil, Gas and Mining visit our mines to see first-hand the complications and the obviously counter-productive results that this construction will bring about.

We can have these structures constructed by November, 1978. However, all these structures require construction on property owned by others and there is no assurance that these property owners will agree to such construction in this time frame.

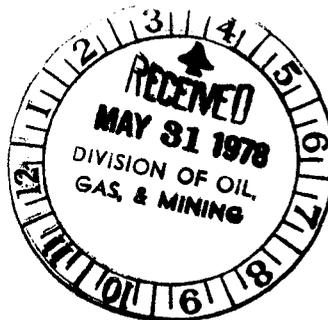
Sincerely,



Dave Shaver
Chief Engineer

DS/rh

Enclosures



A Plan to Bring the Gordon Creek Mines into Compliance with the New OSM Regulations.

The Gordon Creek #2 and #3 Mines may possibly be out of compliance with the regulations promulgated by the Office of Surface Mining because sedimentation ponds are not present as required by 717.17(e).

In the spirit of co-operation with the regulatory agencies Swisher Coal Company has drawn up plans for providing adequately sized ponds and these plans are enclosed herein. However, the Company feels that these measures are impractical and not in keeping with the intent of the law. The Company hereby requests that the Division of Oil, Gas and Mining send representatives to these mines to study the area and to see first-hand the complications involved in meeting this regulation. The Company also requests a variance from this particular section of the regulations and if there exist no variance provisions in the regulations as they are now written, the Company requests that the Division of Oil, Gas and Mining seek to have the Office of Surface Mining include such variance provisions in the final regulations to be written in August of 1978.

In submitting plans for the sedimentation ponds, the Company wishes to illustrate not only how these facilities could be built, but also how environmentally damaging this construction would be. The intent of 717.17 is to "protect the hydrologic system" and more specifically, to lessen sediment loading in the streams resulting from the surface effects of mining. The mine yards and access roads for the Gordon Creek Mines have stabilized now so that sedimentation in the streams is not a problem. The yards and roads were recently regraded and contoured and environmental concerns were important considerations in the planning and construction of the surface facilities. Diversion ditches, catch basins and culverts were placed strategically to control runoff and prevent excess sedimentation. Sedimentation from the yard areas has not been a problem in the past and the entire area is beginning to stabilize since construction was completed several years ago. To build sedimentation ponds as required by the regulations will not prevent sedimentation of the streams, it will only contribute to it.

At this time it is impossible for the Company to insure the Division of Oil, Gas and Mining that the sedimentation ponds can be constructed prior to the November deadline because these facilities will have to be built on private property not owned by the Company.

A Plan to Bring the Huntington Canyon #4 Mine into Compliance with the New OSM Regulations.

The Huntington Canyon #4 Mine may possibly be out of compliance with the regulations promulgated by the Office of Surface Mining in the following areas:

1. The access road leading to the mine is, in one place, steeper than specified under 717.17 (j)(2)(ii) which limits the overall sustained grade to 10%.
2. Sedimentation ponds are not present as required by 717.17(e)

In the spirit of co-operation with the regulatory agencies Swisher Coal Company has drawn up plans for reconstructing the access road and for providing adequately sized sedimentation ponds and these plans are enclosed herein. However, the Company feels that these measures are impractical and not in keeping with the intent of the law. The Company hereby requests that the Division of Oil, Gas and Mining send representatives to this mine to study the area and to see first-hand the complications involved in meeting these regulations. The Company also requests a variance from these particular sections of the regulations and if there exist no variance provisions in the regulations as they are now written, the Company requests that the Division of Oil, Gas and Mining seek to have the Office of Surface Mining include such variance provisions in the final regulations to be written in August of 1978.

In submitting the plans for the new access road and the sedimentation ponds, the Company wishes to illustrate not only how these facilities could be built, but also how environmentally damaging this construction would be. The intent of 717.17 is to "protect the hydrologic system" and more specifically, to lessen sediment loading in the streams resulting from the surface effects of mining. The mine yard and access road for the #4 Mine have stabilized now so that sedimentation in the streams is not a problem. The yards and roads were designed under the watchful eye of the U.S. Forest Service and environmental concerns were important considerations in the planning and construction of the surface facilities. Diversion ditches, catch basins, by-pass pipes and culverts were placed strategically to control runoff and prevent excess sedimentation. The steep section of the access road which is non-complying is well constructed with a well defined drainage ditch and several culverts placed to properly handle runoff. The road is constructed over bedrock for the most part and runoff does little, if any, erosional damage. To reconstruct this road will require a great deal of excavation which will greatly increase sediment loading into the nearby streams. Such construction would be totally counter-productive to the intent of the Act.

Similarly, sedimentation from the yard area has not been a problem in the past and the entire area is beginning to stabilize since construction was completed several years ago. To build sedimentation ponds as required by the regulations will not prevent sedimentation of the streams, it will only contribute to it.

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At this time it is impossible for the Company to insure the Division of Oil, Gas and Mining that the road and the sedimentation ponds will be constructed prior to the November deadline because both these facilities will have to be built on Forest Service property. The Forest Service is bound by law to write an Environmental Analysis Report for any such disturbance and there is no guarantee that they will even allow the Company to proceed with these projects because of the environmental degradation associated with their construction. However, the plans have been submitted to the Forest Service for approval.