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SWISHER COAL CO.

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October 16, 1979

Hearings Division
Office of Hearings & Appeals
U.S. Department of Interior
4015 Wilson Boulevard
Arlington, Virginia 22203



ACT/007/022

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Certified Mail

Re: C.V. Spur Violation Notice #79-5-5-29(1)

This letter will constitute a request by Swisher Coal Co. for a review of the above referenced notice of violation.

The notice was issued on our C.V. Spur Preparation Facility by Mr. Gary Fritz of the Office of Surface Mining, Region V Office, on September 20, 1979. The violation was written as "operating without an approved mining permit". The remedial action required for abatement was to submit a mining plan to the State Regulatory Authority for approval. This submittal was made on the afternoon of September 20, 1979. It should be noted that the plant itself is located on private land some twenty-five (25) miles from the mine sites, and as a result, it was unknown by our office that a mining permit was required for its operation.

This request for review is based on a provision in the State of Utah Mined Land Reclamation Act, Title 40-8, page 51, paragraph 6. This paragraph specifically excludes such off-site operations and transportation facilities as C.V. Spur from the definition of a "mining operation". It therefore appears that no mechanism actually exists in the Utah Act for inclusion of C.V. Spur as a mining operation which needs to be permitted as stated in the OSM violation.

It is therefore the request of Swisher Coal Co. to appeal this violation based on the fact that it is in conflict with the State Act.

Respectfully,

Dan W. Guy, P.E.
Chief Engineer

DWG/rh

cc: Murray Smith, Region V OSM Office
Ron Daniels, Utah Division of Oil, Gas & Mining