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Mr. Cleon Feight
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1588 West North Temple
Salt Lake City, Utah 84116

March 17, 1981
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DIVISION OF
OIL, GAS & MINING

Dear Jack:

This letter is in response to Jim Smith's letter of March 5, in which there seems to be several misunderstandings in regard to the review of ARCO's Castle Valley (C.V.) Spur. The request for a modification to C.V. Spur was submitted on August 8, 1980. Additional information was submitted on November 14. It should also be noted that when the C.V. Spur plan was submitted, John Hardaway of my staff called your staff to find out if you had received the plan. According to your staff, Utah had not. ARCO was then directed by OSM to provide you with copies. Your staff also indicated that we should proceed to process the application. Since that time, John Nadolski of my staff has been conveying progress on the review to your staff.

Since a modification to the plan would involve a review by both of our staffs, John Nadolski contacted Jim Smith to see if we could share the workload by adopting or making use of each other's expertise. Jim's letter states that Mr. Nadolski's "...letter subsequently invited the Division staff to write 'compliance section for any of these sections (except archaeology)'." Mr. Nadolski's letter was intended to invite your staff to discuss incorporating any written compliance section into OSM's Technical Environmental Analysis (TEA). John's letter was a confirmation of his discussions with you and an attempt to continue the joint effort to the degree your staff's other commitments would allow.

Jim Smith's letter continues with a request for clarification on four specific points. I will address each of these points separately:

1. Has an apparent completeness review been done for this mine plan? If so, may the Division have a copy for review?

Since OSM considers this plan to be a minor modification in response to ARCO's Huntington No. 4 approval (Special Stipulation No. 6), no formal apparent completeness review was performed other than for cultural resource. All cultural resource surveys undergo an apparent completeness review when possible. Your office was not formally sent a copy of this review because the information needs could not be satisfied before the TEA was scheduled to be completed and it was decided that the deficiencies could be satisfied through stipulations. Therefore, Utah was to be given the list of deficiencies when the TEA was ready for review.

I recognize that the cultural resource apparent completeness review should not have been given to ARCO. Its transmission was premature and inadvertent. It was given in good faith during a site visit when ARCO requested it and we should have provided a copy to you. Such an oversight will not occur again.

2. How is OSM deciding which section its staff will write compliance sections for and which this Division will do?

When any workload is shared by two agencies such as ours, it is imperative that communication be maintained in order to determine the assignments. In regard to C.V. Spur, Mr. Nadolski's letter of January 12 requested that our agencies discuss what sections from your group would be incorporated into OSM's TEA. I understand that my staff was aware (via personal contact) that you were doing soils and wildlife. However, we have not received any information back on these topics. The TEA is almost completed for all pertinent sections and will be sent to your office for review within the next few weeks.

The draft approval package will suggest several informational stipulations regarding topsoil, revegetation, hydrology, bonding, and cultural resources. It is recognized that if ARCO satisfies these information requirements prior to approval, then these draft stipulations can be deleted by your office.

Under the Permanent Regulatory Program, you have asked that OSM prepare the apparent completeness review and that your staff prepares the technical analysis. If, during the technical analysis, you find a need for assistance, my staff would then provide the requested support. I believe that all of the close cooperation necessary can be coordinated through John Nadolski, and I welcome your comments on how to make this work better.

3. Is it proper procedure under the existing cooperative agreement to have this Division remain unaware of reviews done by OSM?

All formal reviews performed by OSM should and will be sent through your office. The cultural resources apparent completeness review informally given to ARCO was a draft document never intended to be given to ARCO. As I said above, this was inadvertent.

4. If there were no cultural sites found during the survey, is it reasonable to find the report inadequate because it has no cover page, abstract and other minor deficiencies?

Before we address your specific comments concerning cultural resources, a few prefatory remarks may be in order. I regret the unfortunate sequence of events and misconceptions surrounding the cultural resource ACR. The ACR in your possession was solely constructed for in-house purposes, is a draft, and

was not designed to be formally forwarded to ARCO. What was meant to be forwarded was a portion of Section D, Outline of Future Requirements. The items, listed below, from Section D are required before OSM can begin the compliance specified by Section 106 of the National Historic Preservation Act of 1966.

1. Provide proof of a National Register Check.
2. Provide an explicit statement of survey methods that include survey strategy, ground cover, visibility, presence of unknown sites, and so on.
3. If any areas were not surveyed, a detailed explanation should be included.
4. Provide a detailed discussion of the criteria used to define a site.
5. Assess likelihood of locating buried sites.
6. If any National Register sites are identified, identify and describe the type and degree of impact expected from the proposed action on those sites eligible for or listed on the National Register.

Please note that nowhere in the previous discussion was the contractor's ability or the format of the report questioned. Additionally, the report was not found inadequate for lack of a "cover page, abstract or other minor deficiencies." OSM has merely requested that additional information be provided that will allow OSM to proceed with its "106 compliance activities." In particular, OSM is required to publish cultural resource investigations as part of the mitigation and recordation process (P.L. 93-291, 88 Stat. 17-4, Sec. 3). Departmental policy is to publish via the National Technical Information System. This system requires title pages, abstracts, identification of Principal Investigator, and certain formats to be followed. Much of the information and form are specified by these other laws and regulations.

In summary, my staff has prepared a draft TEA for the modification to the Castle Valley Spur. Initially, it was intended that the expertise of each of our staffs would be utilized and that one document would be produced. While we have not received comments on the first draft, we continued work and have a draft final product nearly completed. This document will be sent to you in the coming weeks for comment.

In the past, you and your staff have shown my staff great courtesy by allowing my staff to call coal operators directly when information was needed. I appreciate this effort; however, I think that this type of flexibility and cooperation is essential if a speedy review of an operator's proposal is to be achieved.

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I understand that our staffs have agreed upon a joint review process for the review and re-permitting of mines under the permanent program. Since much of this work is concentrated in a relatively short time, it is necessary for us to continue to work closely and cooperatively.

Please know that I would be happy to visit with you soon and discuss, in detail, how we are going to handle the mine plan work in the next 12 months.

Sincerely,



DONALD A. CRANE