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State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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Mine Site

December 16, 1993

Brian Burnett, Esq.  
Kennecott Building, Suite 800  
10 East South Temple  
Salt Lake City, Utah 84133

Re: Sunnyside Cogeneration Associates, Sunnyside Refuse and Slurry, ACT/007/035,  
Carbon County, Utah

Dear Mr. Burnett:

I am writing to transmit information about some alleged inspection problems that may concern both of us. As you know, Bill Malencik has recently been assigned to be the compliance inspector for the Sunnyside Cogeneration Associates (SCA) permit.

In his first inspection at your mine conducted on September 28, 1993, he reported:

- ◆ No one at the mine site would assume responsibilities and implied they do not have the authority to represent SCA on DOGM inspections. Individuals referred to above statement include Allan Adkins, Parsons Main; Jerry Carter and Barry Mills Savage Industries; and Ann Carney.
- ◆ All personnel were cooperative but not willing to assume responsibility for customary practices performed by operators during the normal inspection process.
- ◆ SCA does not have a representative on site.
- ◆ Personnel did not provide certain specific records on request. (A review of mine permit paperwork is a requirement of a Complete Inspection under DOGM's program.)
- ◆ Declined to accompany the inspector on the field segment of the inspection.
- ◆ When a violation had to be issued, all representatives that were contacted and mentioned above refused to sign the violation implying they were not responsible for the environmental segment of the program.



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He also reports:

- ◆ That in his opinion the current operation has different entities or agents assigned to specific work, but no one seems to be in charge of pulling all the parts together.
- ◆ Bill Malencik's November 30, 1993, complacency inspection encountered a similar lack of accountability for compliance noted above, but Bill understands that the environmental consultants now have a technical and operational role at SCA.

An observation worth passing to you is that many uninitiated mining operators have similar problems when first beginning an operation under SMCRA, and that after the realities of compliance inspections under SMCRA (and in this case the Utah Coal Regulatory Program) are accepted, successful operators delegate compliance responsibilities to a specific person. That individual's success in achieving compliance at a regulated site has been a function of his management's delegation of authority for making appropriate compliance and permitting decisions, and in his ability to establish an understanding of specific permitting and compliance requirements amongst the work force at the mine.

Having a designated individual responsible for solving on-site compliance problems has an additional advantage in that that person can discuss resolution of potential problems with the DOGM inspector before the problem becomes a cited violation. Frequently, resolution reached through this exchange of ideas precludes the need for an enforcement action.

I am sure you are aware that DOGM regulations provide for unannounced inspections and EWP may or may not be on the mine site, consequently a person assigned the compliance duties needs to be based at the operation, and needs to have an informed backup to cover those contingencies when the compliance person must be elsewhere.

There may be liability insurance benefits in the form of reduced premium to SCA when SCA has a routine policy of always accompanying visitors with a trained representative. I am sure there are members of the Utah Mining Association's Environmental Subcommittee that could discuss this with you if you desire.

I have tried to instill in our inspectors the need to be perceptive and communicate situations that may develop into problems. It is in this spirit that I am sending this letter.

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Should you wish, we would be happy to meet with you to discuss a means by which we both can efficiently and effectively carry out our responsibilities.

Sincerely,



Lowell P. Braxton  
Associate Director, Mining

vb

cc: J. Carter  
W. Malencik  
J. Harden  
J. Helfrich  
P. Grubaugh-Littig

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