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WESTERN
STATES
MINERALS
CORPORATION

Copy, Susan, Tom, Henry, PAM, Jesse
File ACT/015/002 #2 & #5

FAX TRANSMITTAL SHEET

DATE: 12 / 18 / 91

ATTENTION: Ms. Pamela Grubaugh-Littig

COMPANY: Utah - Division of Oil, Gas, & Mining

FAX #: 1-801-359-3940

FROM: Dwight J. Crossland

 # OF PAGES: 4 (Includes this cover sheet).

MESSAGE: Attached please find our N.O.V. Response, as well as a copy of the Informal Appeal Conference Request.

Please let me know if you need further information.

Dwight

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WESTERN
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CORPORATION

December 17, 1991

Ms. Pamela Grubaugh-Littig, Permit Supervisor
Utah Department of Natural Resources
Division of Oil, Gas, & Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

FAXED 12-18-91
CERTIFIED - RETURN RECEIPT
P 143 961 000

Dear Ms. Grubaugh-Littig:

Re: NOTICES OF VIOLATION N91-35-6-1, N91-35-7-1, AND STIPULATION R614-301-742.113 RESPONSE, WESTERN STATES MINERALS CORPORATION, J.B. KING MINE, ACT/015/002, FOLDER #2, EMERY COUNTY, UTAH.

In response to the Utah Department of Natural Resources, Division of Oil, Gas, & Mining ('UDOGM') Notices of Violation N91-35-6-1, N91-35-7-1, and Stipulation R614-301-742.113, Western States Minerals Corporation ('WSMC') submits the following erosion control plan, for the permittee's J.B. King (aka Dog Valley) Mine site, ACT/015/002, Folder #2, Emery County, Utah.

As a preliminary matter, WSMC has incurred substantial expenditures in the past at the J.B. King site for environmental / reclamation studies and projects, and continues to do so - as evidenced in part by the current re-assessment and application for change of vegetation reference area for the site. WSMC believes that it has made a good faith effort to conform to - and abide by - the Utah R614 Coal Mining Rules, and has also been communicative and cooperative in it's dealings with UDOGM personnel. Despite these efforts, WSMC believes that current interpretations of certain R614 Rules have been detrimental to overall reclamation at J.B. King, particularly given the specific geomorphic and climatological patterns which prevail in this area. In discussions conducted with UDOGM personnel at various site inspections, field reviews, and other opportunities, my understanding has been that although the UDOGM personnel may agree that the R614 Rules are not written to address the **particular** reclamation needs of the J.B. King site, they also state that field personnel have little leeway for R614 Rule modification or interpretation. While WSMC understands the dilemma posed to UDOGM personnel by this issue, it nevertheless believes that the interpretation or modification of certain R614 Rules is necessary to provide the best and most efficient reclamation at the J.B. King project.

Therefore, as previously discussed with UDOGM, WSMC believes that it must exercise it's legal right of due process. WSMC understands that within UDOGM, this process begins with the discussion of issues at the field and permit level, continues to the administrative level through the informal appeal process, and ultimately may be appealed by petition to the Board. WSMC firmly believes in, and intends to work within this system. As WSMC and Division personnel have previously conferred in good faith and been unable to resolve these issues, WSMC has initiated the second step of the process through requesting an Informal Appeal Conference. WSMC expects to provide

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factual evidence and expert witness testimony at the Informal Appeal Conference to support it's contentions regarding the validity of the current reclamation plan as well as the positive and productive gains which would accrue to the J.B. King reclamation project by modification of, or variance to, certain R614 Rules.

PROPOSAL OF EROSION CONTROL PLAN. WSMC strongly believes that the current reclamation plan and included erosion control scheme is valid for the J.B. King Mine site - with the exception of the R614 Rules modifications or variances as previously discussed, and to be formally requested at the Informal Appeal Conference - and hereby proposes that the plan remain unmodified during the period WSMC exercises it's right of due process. WSMC fully expects the current J.B. King plan to be validated during this process, but even if this is not the case, the appeal will undoubtedly result in a formal ruling which will inevitably affect the resolution of this issue. As a result, WSMC is convinced that modification of the plan prior to the conclusion of the due process sequence is not in the best interests of WSMC, UDOGM, or the overall J.B. King reclamation program.

Finally, WSMC would like to express appreciation for the professional conduct of the UDOGM personnel involved in the discussion of the difficult issues regarding J.B. King. Their comments and suggestions have been valuable and appreciated. WSMC looks forward to a continuing communicative and cooperative relationship with UDOGM in concluding the successful reclamation of the J.B. King site.

If you require any further information, please let me know.

Sincerely,

Dwight J. Crossland

Dwight J. Crossland

cc: A.B. Morrow
E. Gerick
L. Berg

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COPY - FILE

WESTERN STATES MINERALS CORPORATION

December 16, 1991

Mr. Joseph C. Helfrich
Utah Dept. of Natural Resources
Division of Oil, Gas, & Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

CERTIFIED RETURN RECEIPT
P 672 257 923

Dear Mr. Helfrich:

Re: **Utah Notice of Violations No. N91-35-6-1 and No. N91-35-7-1, Western States Minerals Corporation, J.B. King Mine, ACT/015/002, Folder #5, Emery County, Utah**

This document is the official written request that Western States Minerals Corporation ('WSMC') desires both an Informal Appeal Conference to appeal the facts of the Notices of Violation, as well as an Informal Assessment Conference to review the proposed penalties for Utah State Notices of Violation No. N91-35-6-1 and No. N91-35-7-1. Both of these Citations are in reference to the J.B. King (Dog Valley) Coal Mine, ACT /015/002, Folder #5, Emery County, Utah.

Please note that both an Informal Appeal Conference and an Informal Assessment Conference are being requested for each Notice of Violation. WSMC believes that these Notices of Violation are interrelated issues, and further requests that the two Informal Appeal Conferences be combined and heard at a unified conference. Similarly, WSMC believes that these Notices of Violation are interrelated issues in terms of the proposed penalties, and also requests that the two Informal Assessment Conferences be combined and heard at a unified conference. Last, WSMC proposes that the unified Informal Assessment Conference be held immediately subsequent to the unified Informal Appeal Conference, and preferably on the same date.

As a final matter, I am of the understanding from you (following our telephone conversation this afternoon), that these Informal Conferences are the preferred first step in the UDOGM appeal process, and that they will in no way infringe upon or denigrate WSMC's rights of formal appeal to UDOGM, or to further judicial review.

Please let me know if you require further information.

Sincerely,

Dwight J. Crossland

Dwight J. Crossland

cc: E. Gerick

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