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JUL 22 1991

DIVISION OF
OIL GAS & MINING

July 19, 1991

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

Re: Your letter of June 14, 1991.

Dear Ms. Grubaugh-Littig:

First, apparently it would be appropriate to again mention my correct name and address regarding my current assignment as "designated representative" for the Western States Minerals Corporation operation known as the 'J.B. King Coal Mine' (formerly known as the 'Dog Valley Coal Mine'), ACT/015/002, Emery County, Utah. It is:

Dwight J. Crossland
Western States Minerals Corporation
84 Glen Carran Circle
Sparks, Nevada 89431

I believe that it would facilitate my providing the 'timely response' you desire, and our communications in general, if any future correspondence could be correctly addressed.

Secondly, I was rather surprised by the content and tone of your letter. Stipulation R614-301-140 was addressed by Mr. Frank Filas (WSMC'S previous designated representative for the J.B. King property) in a letter to you dated February 12, 1991 - which was accompanied by a revised map showing proposed additional disturbed area markers. While this issue has been discussed by myself and some division inspectors, I can find nothing in my files in which the division has formally acted on Frank's proposal. At this time, I have no reason to change Mr. Filas's proposed markers, without formal input from the division. In my opinion, a division decision (or contention) of the proposed additional disturbed area markers should be issued, so that this issue may be moved ahead.

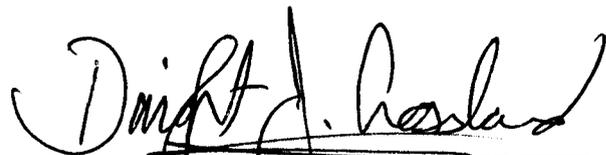
Stipulation R614-301-742.113 addresses the issue of 'normally accepted husbandry practices' for on-site work during the bonded liability period. As you are aware, this a complex issue which Frank Filas was pursuing an answer to at the request of the division, and which I have continued to pursue - as evidenced by a number of things; but particularly including a meeting which was held between myself and several of your staff members in the division's Salt Lake City office on 11 June, 1991. At that meeting, we discussed the division's current suggestions on some of these issues, and I believe I mentioned that I was awaiting input from our contract re-vegetation specialists, who were due at the site during the following week. I have not yet received their final report, however, I am attaching a copy of a letter

from Mr. Brad Williams, Range Conservationist, Utah Department of Natural Resources, Division of State Lands and Forestry, and dated February 19, 1991. Mr. Williams states in his letter "The construction of check dams or any other structural improvement that controls erosion and stabilizes soils would indeed be a normal conservation practice to improve range conditions. This is especially true in areas managed for grazing, wildlife or watershed values." I am also attaching a copy of my most recent letter to the U.S.B.L.M. on the same issue. No response was ever received on the previous letter, which Mr. Johnson claimed he never received. My intention is to provide an amended response to these issues - based on current information from division employees, and from other sources of expertise. I will file such response at the earliest date possible following the acquisition of this data.

I have spent a number of years living and working in southern Utah, and know from personal experience the great diversity of geological and biological phenomena which have combined to form the topographic, floral, and faunal cultures of this region as we now see it. Because of this past experience, I am of the belief that a hurried approach to the perceived difficulties with the J.B. King reclamation work will only result in additional problems and costs later - both for the division and for WSMC. It is my opinion, that a logical approach to problem resolution, collecting the best data and recommendations on the available reclamation methods possible, will result in the best long term solution to those problems. Further, I believe that WSMC's past efforts at the J.B. King site can be shown to have been made in a timely fashion, that they have complied with the terms of the permit, and that they have been performed positively and in a good faith effort to reclaim the site with the best methods that were known at the time.

In summary, I contend that Western States Minerals Corporation, in general, and Frank Filas and myself, in particular, have actively pursued the work at hand at the J.B. King Mine - and that I certainly intend to continue to do so. I look forward to a continuing cooperatively spirited relationship with the division, based on a joint effort to get the job done! Please let me know if you require any further information, or if I can be of assistance.

Sincerely,


Dwight J. Crossland

ENCLOSURES

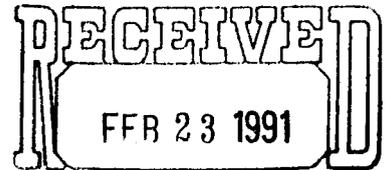


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DEPARTMENT OF NATURAL RESOURCES
DIVISION OF STATE LANDS AND FORESTRY

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P.O. Box 653
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801-896-6494



WSMC
M-75

February 19, 1991

Mr. Frank Filas
Western States Mineral Corporation
4975 Van Gordon Street
Wheat Ridge, Colorado 80033

RE: Conservation Practices

Dear Mr. Filas:

I have received your letter of February 12, 1991. You indicated that the Division of Oil, Gas and Mining has expressed some concerns that the installation of check dams to replace silt fences may not constitute a "normal conservation practice" for similar unmined lands.

In accordance with State Statute 65A-9-1, the Division of State Lands and Forestry is responsible for "efficient management of all range resources on lands under their administration". This also provides for "practices to improve range conditions". The construction of check dams or any other structural improvement that controls erosion and stabilizes soils would indeed be a normal conservation practice to improve range conditions. This is especially true in areas managed for grazing, wildlife or watershed values.

During our discussion on the telephone, I mentioned that this operation could be handled as a range improvement project. After discussion of the situation with my supervisors, it was determined that this would be part of your normal reclamation operations.

If I can be of any further assistance, please feel free to contact me.

Sincerely,

Brad Williams
Range Conservationist

BW/jlcs

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July 12, 1991

Mr. David Orr, Range Mgt. Specialist
U.S. Bureau of Land Management
San Rafael Resource Area
900 N. 700 East
Price, Utah 84501

Re: Definition of 'Normal Conservation
Practices'

Dear Mr. Orr:

Western States Minerals Corporation (WSMC) reclaimed the J.B. King Mine (a.k.a., Dog Valley Coal Mine) during the fall of 1985. The site is located on Utah State School Section 32, T.23S., R.6E., S.L.B.&M., which lies within the U.S.B.L.M. San Raphael Resource Area. The J.B. King Mine was one of the first coal mines to be reclaimed under the Utah permanent program rules.

Twenty-eight silt fences were installed in mid-1988 to control erosion on critical areas of the site. WSMC has proposed, as part of the five year permit renewal, to replace these silt fences with small permanent check dam structures, and to reshape and stabilize erosion rills on the site by back-filling them with rocks and straw, and thus providing additional sites for vegetation re-establishment. We have proposed to utilize an ATV vehicle and hand labor in performing this work so that disturbance to existing vegetation is minimized.

The Utah Division of Oil, Gas, and Mining (UDOGM) has tentatively approved this work, but they have informed us that it could restart the 10-year bond liability period unless the regional land managing agencies determine that the work constitutes "normal conservation practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area".

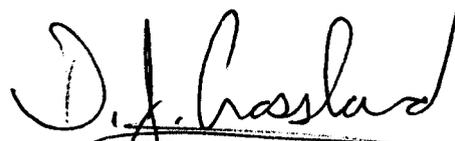
The above quoted text is found in Utah State Rule R614-357.300, of which a copy is attached. The post-mining land use at J.B. King is the typical marginal livestock grazing and wildlife habitat capability of southern Utah.

I spoke today with Gary Johnson, of the Price BLM Office, and he suggested that I contact you about the situation. Mr. Frank Filas, of our Denver office has previously requested this information from Gary; however, Gary feels that the matter of conservation practices is outside of his realm of expertise, and referred me to you as a Range Management Specialist. What we would like to acquire is a written determination from the BLM as to whether or not the following can be considered to constitute "normal conservation practices within the area":

- 1.) the installation of check dams; and
- 2.) the reshaping and stabilization of erosion rills.

Please feel free to contact me here at the Sparks, Nevada office of Western States Minerals Corporation, or Ms. Pamela Grubaugh-Littig at the Utah Division of Oil, Gas, & Mining in Salt Lake City, Utah, if you require additional information. Thank you for your assistance in this matter!

Sincerely,

A handwritten signature in cursive script, appearing to read "D. J. Crossland". The signature is written in black ink and is positioned above a horizontal line.

Dwight J. Crossland

Enclosures

DJC/djc

- 356.230. For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, success of vegetation will be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:
- 356.231. Minimum stocking and planting arrangements will be specified by the Division on the basis of local and regional conditions and after consultation with and approval by Utah agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may be on a program-wide basis or on a permit-specific basis.
- 356.232. Trees and shrubs that will be used in determining the success of stocking and the adequacy of plant arrangement will have utility for the approved postmining land use. At the time of bond release, such trees and shrubs will be healthy, and at least 80 percent will have been in place for at least three growing seasons in areas with a five-year period of responsibility, and at least eight growing seasons in areas with a 10-year period of responsibility. No trees and shrubs in place for less than two growing seasons will be counted in determining stocking adequacy.
- 356.233. Vegetative ground cover will not be less than that required to achieve the approved postmining land use.
- 356.240. For areas to be developed for industrial, commercial, or residential use less than two years after regrading is completed, the vegetative ground cover will not be less than that required to control erosion.
- 356.250. For areas previously disturbed by mining that were not reclaimed to the requirements of R614-200 through R614-203 and R614-301 through R614-302 and that are remined or otherwise redisturbed by coal mining and reclamation operations, at a minimum, the vegetative ground cover will be not less than the ground cover existing before redisturbance and will be adequate to control erosion.
- 356.300. Siltation structures will be maintained until removal is authorized by the Division and the disturbed area has been stabilized and revegetated. In no case will the structure be removed sooner than two years after the last augmented seeding.
- 356.400. When a siltation structure is removed, the land on which the siltation structure was located will be revegetated in accordance with the reclamation plan and R614-301-353 through R614-301-357.
357. Revegetation: Extended Responsibility Period.
- 357.100. The period of extended responsibility for successful vegetation will begin after the last year of augmented seeding, fertilization, irrigation, or other work, excluding husbandry practices that are approved by the Division in accordance with paragraph R614-301-357.300.
- 357.200. Vegetation parameters identified in R614-301-356.200 will equal or exceed the approved success standard during the growing seasons for the last two years of the responsibility period. The period of extended responsibility will continue for five or ten years based on precipitation data reported pursuant to R614-301-724.411, as follows:
- 357.210. In areas of more than 26.0 inches average annual precipitation, the period of responsibility will continue for a period of not less than five full years.
- 357.220. In areas of 26.0 inches or less average annual precipitation, the period of responsibility will continue for a period of not less than ten full years.
- 357.300. The Division may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices will be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.
358. Protection of Fish, Wildlife, and Related Environmental Values. The operator will, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife, and related environmental values and will achieve enhancement of such resources where practicable.
- 358.100. No coal mining and reclamation operation will be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973. The operator will promptly report to the Division any state- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the Division will consult with appropriate state and federal fish and wildlife agencies and, after consultation, will identify whether, and under what conditions, the operator may proceed.
- 358.200. No coal mining and reclamation operations will be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The operator will promptly report to the Division any golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the Division will consult with the U.S. Fish and Wildlife Service and the Utah Division of Wildlife Resources and, after consultation, will identify whether, and under what conditions, the operator may proceed.

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