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** TRANSMIT CONFIRMATION REPORT **

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* Journal No. : 012 * * * * *

* Receiver : 702 358 3660 * * * * *

* Transmitter : DIV OIL GAS & MINING * * * * *

* Date : Jan 8,92 16:57 * * * * *

* Document : 03 pages * * * * *

* Time : 01'31" * * * * *

* Mode : G3 NORMAL * * * * *

* Result : OK * * * * *

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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter

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Dee C. Hansen

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Dianne R. Nielson, Ph.D.

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Mine file
3+5

January 8, 1992

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

Dear Mr. Crossland:

Re: Petition for Temporary Relief, December 31, 1991, J. B. King Mine,
ACT/015/002, Emery County, Utah

I am in receipt of your December 31, 1991, letter to Jan Brown petitioning for temporary relief from Notices of Violation N91-32-6-1, N91-35-6-1, N91-35-7-1, and Stipulation R 645(614)-301-742.113 at the above-referenced mine. Under Utah Code Ann. § 40-10 there are two opportunities for temporary relief:

Section 40-10-14, discusses relief upon permit denial or approval; and § 40-10-22, addresses relief from the Notice of Violation (NOV) or Cessation Order (CO) process. In both cases, the Board of Oil Gas and Mining grants the relief: § 40-10-14(4), upon request for a hearing and § 40-10-22-(3)(c), pending completion of an investigation and hearing.

The temporary relief requested in your December 31, 1991 letter, is that anticipated at § 40-10-22(3)(c), but I find the request premature, since no hearing has been conducted by the Board, and no investigation has been ordered. On this basis, I must deny your request for temporary relief.

There are two options that Western States may wish to consider:

1. Request an Informal Conference concerning the fact of the violation, and administrative delay in abatement of the NOV's beyond 90 days. This is essentially the relief that your December 31, 1991, letter was seeking. This request should be made to Dianne Nielson, Director of the Division. The provision for this request is found at R 645(614)-400-328.200 and .500. The basis for such a request is found in point one of your December 31, 1991 letter, and in Western States' historic willingness to repair

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and reconstruct erosive failure at J. B. King. The modified abatement date for these NOVs is January 15, 1992. Consequently, this request would have to be delivered to the Division by close of business January 15, 1992.

2. Appeal the violations to the Board of Oil, Gas and Mining as is provided by R 645(614)361.100 and Utah Code Ann. § 40-10-22(3). My records show that the violations in question were modified on December 19, 1991. Under this option a Petition for review from the Division's action (the NOVs and Stipulation) must be filed with the Board of Oil, Gas and Mining no later than January 19, 1992. Jan Brown, Secretary to the Board, can advise you of the proper form for this Petition should you wish to consider this option.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Carter". The signature is fluid and cursive, with a large initial "J" and "C".

James W. Carter, Chairman
Board of Oil, Gas and Mining

vb

cc: D. Nielson
L. Braxton
J. Helfrich
P. Grubaugh-Littig

jbking