

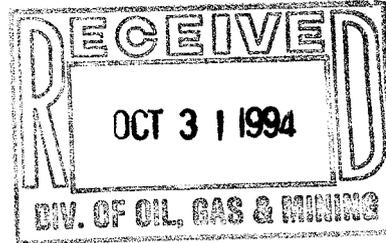
0008

015/002 #2

and #5



CERTIFIED MAIL
RETURN RECEIPT REQUESTED



October 26, 1994

Mr. Daron Haddock, Permit Supervisor
 State of Utah
 Division of Oil, Gas and Mining
 355 West North Temple
 3 Triad Center, Suite 350
 Salt Lake City, UT 84180-1203

RE: J.B. KING ACT/015/002 - FINAL REQUEST FOR TIME EXTENSION ON
 NOV'S 91-32-06-01; 93-25-03-01; AND 93-25-05-01

Dear Mr. Haddock:

I have reviewed your letter of October 17, 1994 which denies my request for an extension of time to abate NOV's 91-32-06-01; 93-25-03-01; and 93-25-05-01.

I implore you to reconsider your decision on the following grounds:

1) I just received (October 24, 1994) the additional boron and selenium analyses that Henry Sauer requested for the J.B. King soil samples. These are attached for your review. This now completes the analysis of the proposed excavated channel material as requested in Condition #3 of your October 3, 1994 letter. In addition, I have received approvals for the use of biosolids from:

| <u>Agency</u> | <u>Date Received</u> |
|--|----------------------|
| U.S.E.P.A. Region VIII | October 13, 1994 |
| State of Utah, DEQ Division of Water Quality | October 24, 1994 |

Does this data now provide you with enough information to determine their suitability for use as cover material? (Clarification of Condition #3 requested.)

2) The above statement clearly demonstrates that more clarification is required prior to fieldwork proceeding. Revising this plan to achieve those clarifications is a herculean task, to put it mildly. Without final approved plans, the Division is expecting Western States Corporation (WSMC) to proceed with fieldwork using assumptions to interpret which of the numerous past proposals is the one that the Division "considered adequate to allow the proposed construction to proceed."

3) As you have said Daron, "The Division is anxious to see (on the ground) progress toward completing the NOV abatement requirements." However, for NOV 93-25-03-01 one of the remedial (abatement) actions required is to: "submit complete and technically adequate plans providing for reconfiguration of reclaimed areas to achieve compliance with the Utah Coal Regulatory Program." I believed we (the Division and WSMC) were diligently working toward that common goal. However, without final approved plans this process is incomplete and abatement in the field is inappropriate.

4) From our October 4, 1994 meeting, we discussed a method to establish a standard by which we can determine the erosional stability of the site for compliance evaluation and, ultimately for bond release. During this discussion, we decided that this new methodology may allow us to eliminate the toe ditch from the proposed plans (I believe that Division personnel, as well as WSMC perceive this to be a positive benefit for the site). However, we must finalize this methodology (DOGM and WSMC reach written consensus) and incorporate it into our revised plans.

5) I have not received a specific technical staff response to my proposal dated August 19, 1994 and presented to your staff on August 22, 1994. This was the last technical submittal from WSMC. Without that comprehensive response, or some additional clarifications, I cannot complete final plans for submittal to your office.

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6) As I said before, this extension of time will not create an imminent danger to the health or safety of the general public; nor will it cause, or can reasonably be expected to cause, any significant, imminent environmental harm to the land, air, or water resources of the immediate site or off-site, as well.

If you know a way to expedite the development and approval of final plans; or we can somehow clarify the outstanding issues before we begin fieldwork, I am more than willing to entertain your thoughts on the subject.

It is certainly not my desire, nor that of WSMC, to delay field abatement of the NOV's; but we must clearly know what is mutually agreed upon prior to proceeding. Therefore, your careful consideration of this final request for an extension of time to abate the outstanding NOV's is appreciated.

I will welcome the day that we can finalize the revised J.B. King plans, receive your approval on them, and complete the prescribed work in the field.

Sincerely,



E.M. (Buzz) Gerick
V.P. Operations