

Norman H. Bangertter
GovernorDee C. Hansen
Executive DirectorDianne R. Nielson, Ph.D.
Division Director355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

January 23, 1991

Mr. W. Hord Tipton
Deputy Director
Office of Surface Mining
Department of the Interior
Washington, D.C. 20240

Dear *Hord* Mr. Tipton,

Re: 510C Check, Pacificorp

Recommendation

The Division of Oil, Gas, and Mining has run two 510C checks on Pacificorp. Based on the 510C checks and related information, the Division has determined that Pacificorp is not permit blocked. If the Division were making a decision to transfer a permit to Pacificorp, based on the 510C check, the Division would issue.

Background

Attached are the following documents which form the basis for the 510C check:

1. 510C check dated July 20, 1989, with direction to ISSUE.
2. Letter to Bob Boldt clarifying the NERCO violations. The Division has learned from OSM that this information has not been entered into the AVS system by OSM. Therefore, the AVS system is not now providing a correct response. This information must be entered by OSM.
3. 510C check dated January 23, 1991. Recommendation is to deny, but only because OSM has failed to update AVS per paragraph 2, above. The Division has reviewed the NERCO information and determined that it is not grounds for denial.

Page 2
Office of Surface Mining
January 23, 1991

If you have further questions, please contact me.

Best regards,

A handwritten signature in cursive script, appearing to read "Dianne".

Dianne R. Nielson
Director

cc. R. Hagen
Utah Power and Light Company
osm.ltr

/read all

Message 594-2043
Subj: AVSCH RECOMMENDATION: UT

TO: Joe Helfrich, AVS Representative, UT
FROM: Frank Frideczky, AVS Clearinghouse
SUBJECT: Utah Power & Light Co, Application Numbers
ACT015017, ACT015018 and ACT015019
DATE: July 20, 1989

Utah Power & Light Co Applications ACT015017, ACT015018 and
ACT015019 have been researched, and the AVS Clearinghouse
recommendation is ISSUE.

During the research, documents were uncovered linking NERCO INC,
parent company of Utah Power & Light to two CMIS violations in
Alabama, NSO-2-17-23 and NSO-2-17-24, issued to Sand Mountain
Mineral Co. Because of the circumstances involved in these
violations, it is requested that you contact NERCO INC and
request that they contact Frank A. Frideczky on the AVS hotline
to resolve the status of these violations in order to avoid
future complications with NERCO INC related applications.

[PC ID 20:DOI370025:57969]

152E for 152G22 10:09 MDT 20-Jul-89 Message 594-2043 [1]
* RECEIPT notice pending *

Receipt of Message 594-2043 acknowledged to 152E on 11:05 MDT 25-Jul-89
Action?:
[Done]
/bye

Off at 11:06 MDT 25-Jul-89

Host Name: BYE
boRO

NERCO

INTERNAL CORRESPONDENCE

NERCO COAL CORP. - ST. LOUIS

July 19, 1989

TO: Joe Helfrich

FROM: J. R. Phillips
Manager, Environmental and
Regulatory Affairs



Per our conversation of 2:30 p.m. CST on July 19, 1989, I offer the following information which should aid in your permitting problem for UP&L. I am confident that these documents shall clear the issue for you. If you have further problems, let me know.

JRP/mlb/2451u



Class File

NERCO COAL CORP
2043 WOODLAND PARKWAY
ST. LOUIS, MISSOURI 63146
TELECOPIER (314) 993-8397
TELEPHONE (314) 993-2625

MAILING ADDRESS: PO BOX 46366, ST. LOUIS, MISSOURI 63146

March 28, 1988

Mr. Robert Boldt
Deputy Director
Office of Surface Mining, Reclamation and Enforcement
Department of the Interior
Washington, D.C. 20245

Dear Mr. Boldt:

This will follow-up on and confirm your several telephone conversations with our Washington counsel, Jerome Simonds of Freedman, Levy, Kroll and Simonds.

NERCO Coal Corp., through its wholly owned subsidiary, P-V Mining Company, Inc., owns and operates the P-V Mine near Huntingberg, Indiana. Last year we filed a permit area modification request with the State regulatory agency. Expeditious approval of this request is necessary for operations at the mine. Approximately four weeks ago, we were informed that approval of our request could not be obtained because DSM's applicant violator system shows an outstanding assessment against Sand Mountain Minerals, Inc. The P-V Mine itself is in full compliance with all applicable state and federal requirements (and is, in fact, the 1987 winner of Indiana's Excellence in Surface Mining and Reclamation award).

With respect to the Sand Mountain operation, the facts are as follows:

In August, 1979 a cessation order (C-200297) was issued to Sand Mountain Minerals which carried with it a \$6,700.00 penalty assessed on December 4, 1979. The cessation order was later terminated.

In January, 1980 NERCO purchased the assets and listed liabilities of Sand Mountain Minerals, which did not include outstanding regulatory assessments.

In December, 1985 NERCO sold Sand Mountain Minerals in a 100% stock sale transaction to Russell Coal.

Neither NERCO nor any NERCO subsidiary owned or controlled Sand Mountain Minerals at the time of the 1979 cessation order and, as previously stated, did not assume liability for regulatory (DSM or state regulatory agency) assessments at the time of the asset purchase.

I want to express NERCO's appreciation to you for advising Mr. Simonds on Friday, March 25 that you will have our record on this matter removed from the AVS so that the State of Indiana can move forward with our permit request. You also stated to Mr. Simonds that removal of our record from the AVS is contingent upon our demonstrating to your office that NERCO's January 1980 purchase of Sand Mountain Mineral assets did not include the assumption of outstanding regulatory violation assessments.

Mr. Robert Boldt
March 28, 1988
Page #2 of 2

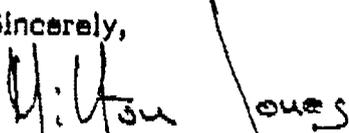
Briefly, NERCO agreed as a part of the purchase agreement only to assume certain liabilities listed on Exhibit B and C to the Purchase Agreement (page 2 of the Purchase Agreement at Sections I and II). Exhibits B and C in turn refer to liabilities included in the Sand Mountain unaudited balance sheets as detailed on schedules. Neither the balance sheets nor the detailed schedules of liabilities include assessments for violations by either the State or Federal regulatory authorities.

I have discussed this matter with the attorneys for NERCO who handled this transaction, and they also confirm this view of our liability assumption.

I have attached copies of relevant portions of the Purchase Agreement, Exhibits B and C, the balance sheets and detail schedules.

Again, NERCO extends its appreciation to you for your prompt resolution of this matter. If there are any further questions, please do not hesitate to call either myself, or Jerome Simonds at 202/457-5117.

Sincerely,

A handwritten signature in cursive script that reads "Milton Jones". The signature is written in dark ink and is positioned above the typed name.

Milton Jones
Director,
Government & Regulatory Affairs

MTJ/dbd/22161

EXHIBIT "B"

All of the unpaid liabilities of Sand Mountain Mineral Company, a general partnership, included on its unaudited balance sheet dated December 31, 1979, as detailed in the schedules, and all unpaid liabilities of said Partnership incurred in the ordinary course of its business since December 31, 1979. Provided, however, that there shall be excluded from such liabilities the following:

- (1) All liabilities and debts of said Partnership owed to its partners.
- (2) All liabilities, debts and other obligations of said Partnership owed to Xerox Corporation and arising out of the uninsured destruction of copying machinery and equipment.
- (3) All attorneys' fees.

EXHIBIT "C"

1. All of the assets of Coal Resources, Inc. and Sand Mountain Mineral Co., Inc. including, but not limited to Coal Leases, Contracts, real estate, equipment, supplies, goodwill, inventory, accounts receivable, files, licenses, permits, records, customer lists, materials, tools, vehicles, machinery, chattels, furniture and fixtures, including, but not limited to, all of those assets specifically referred to and described in the schedules attached to the Purchase Agreement, excluding those scheduled assets which are disposed of in the ordinary course of business prior to the Closing Date, as provided in Paragraph 8.2(b).

2. All of the unpaid liabilities of Coal Resources, Inc. and Sand Mountain Mineral Co., Inc., included on their unaudited balance sheets dated December 31, 1979, as detailed in the schedules, and all unpaid liabilities of said Corporations, incurred in the ordinary course of its business since December 31, 1979. Provided, however, that there shall be excluded from such liabilities the following:

(a) All liabilities and debts of said Corporations owed to their stockholders.

(b) All liabilities, debts and other obligations of said Corporations owed to Xerox Corporation and arising out of the uninsured destruction of copying machinery and equipment.

(c) All attorneys' fees.

DATE: 23 JAN 91

APPLICANT VIOLATOR SYSTEM
APPLICATION EVALUATION REPORT

TIME: 17:45:38

STATE: UT

APPNO: ACT015018

SEQNO: 0

PAGE: 1

APPLICANT'S ENTITY ID: 108524

APPLICANT'S NAME : UTAH POWER & LIGHT CO

SYSTEM RECOMMENDATION IS BASED ON ENTITY OFT

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*
* SYSTEM RECOMMENDATION           : DENY           *
* PREVIOUS SYSTEM RECOMMENDATION: DENY(910123)  *
* OSMRE RECOMMENDATION           : ISSUE(890720) *
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F2/PROCEED F3/QUIT F4/MAIN F6/REPORT F9/V.VIOL F10/V.OFT

DATE: 23 JAN 91

APPLICANT VIOLATOR SYSTEM
CITATION DATA REPORT

TIME: 17:47:32

PAGE: 1 OF 2

CITATION NO.: C200297
COMPANY NAME: NERCO COAL CORP

STATUS: A ISSUE DATE: 08/03/79

COMPANY INDEX NUMBER: 4269.00

MSHA ID:

STATE MINE: AL

PERMIT NUMBER:

AMOUNT DUE: \$6,700.00 PARKER CASE INDICATOR:

HOLD DATE(1):

HOLD CODE(1):

HOLD DATE(2):

HOLD CODE(2):

PAYMENT PLAN DATE:

ABATEMENT DATE: 02/09/82

ABATEMENT PLAN DATE:

ABATEMENT PLAN ADHERENCE:

ABATEMENT PLAN ADHERENCE DATE:

PAYMENT PLAN ADHERENCE :

PAYMENT PLAN ADHERENCE DATE :

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F2/PROCEED F3/QUIT F4/MAIN F7/FORW F8/BACK

DATE: 23 JAN 91

APPLICANT VIOLATOR SYSTEM
CITATION DATA REPORT

TIME: 17:47:46

PAGE: 2 OF 2

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CITATION NO.: C88-132-299-5 STATUS: A ISSUE DATE: 07/27/88
COMPANY NAME: OMEGA COAL CO

COMPANY INDEX NUMBER: 5322.00 MSHA ID: 4405935 STATE MINE: VA

PERMIT NUMBER:

AMOUNT DUE: \$90,000.00 PARKER CASE INDICATOR: P

HOLD DATE(1):

HOLD CODE(1):

HOLD DATE(2):

HOLD CODE(2):

PAYMENT PLAN DATE:

ABATEMENT DATE:

ABATEMENT PLAN DATE:

ABATEMENT PLAN ADHERENCE:

ABATEMENT PLAN ADHERENCE DATE:

PAYMENT PLAN ADHERENCE :

PAYMENT PLAN ADHERENCE DATE :

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F2/PROCEED F3/QUIT F4/MAIN F7/FORW F8/BACK