

OGMCOAL - Re: Fwd: COP Coal Development Company, Appellant - IBLA 2011-111, 112 (and consolidated cases) 3482 (UTG 023), UTU-73342 (LMU), and U-020668 (Lead Coal Lease)

From: Daron Haddock
To: Julie Ann Carter
Date: 10/9/2012 10:01 AM
Subject: Re: Fwd: COP Coal Development Company, Appellant - IBLA 2011-111, 112 (and consolidated cases) 3482 (UTG 023), UTU-73342 (LMU), and U-020668 (Lead Coal Lease)
CC: OGMCOAL; Steve Alder
Attachments: Reply to Castle Valley's Response to Motion for Reconsideration.pdf

Hi Julie,

This is just a courtesy copy of a filing made by COP Development Company to the Department of Interior (IBLA). You are correct that it just needs to be placed in the mine files. Thanks.

Daron R. Haddock
Coal Program Manager
Utah Division of Oil, Gas & Mining
(801) 538-5325

>>> Julie Ann Carter 10/9/2012 8:28 AM >>>

Daron - do you know what the attached is for? It's not for a Board matter, so I thought maybe you need it for your mine files?

>>> On 10/9/2012 at 6:05 AM, in message <5073DFEE.C483.0064.0@utah.gov>, OilGasMining <OilGasMining@utah.gov> wrote:

Julie Ann: This was on the generic email on our webpage.

>>> "DeAnne Barron" <dab@scmlaw.com> 10/8/2012 12:01 PM >>>
On behalf of David L. Pinkston:

Please see attached Reply to Castle Valley's Response to Motion for Reconsideration.

Thanks.

De Anne W. Barron
Legal Assistant
dab@scmlaw.com

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**UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF LAND APPEALS**

COP COAL DEVELOPMENT COMPANY,

Appellant.

(Appeal from a decision by the Utah State Office, Bureau of Land Management, approving a Modification of the Resource Recovery and Protection Plan for the Continuous Miner Pillar panels in the Castle Valley nos. 3 and 4 Mines within the Bear Canyon Logical Mining Unit. UTU-73342)

IBLA 2011-111, 112 (and consolidated cases)

**REPLY TO CASTLE VALLEY'S
RESPONSE TO MOTION FOR
RECONSIDERATION**

3482 (UTG 023)
UTU-73342 (LMU)
U-020668 (Lead Coal Lease)

In its response to COP's Motion for Reconsideration, Castle Valley asserts that COP's Motion is "trivial," and based on "irrelevant" considerations, namely COP's corrective response to Castle Valley's statement that C.W. Mining, Castle Valley's predecessor in interest to the

operating interests in the leases at issue here, had “longwalled itself into bankruptcy.” Castle Valley also suggests that COP’s Motion has not satisfied the regulatory requirements for such a motion and is nothing more than a “rehashing” of the arguments made previously.

Castle Valley apparently missed the entire point of the Motion for Reconsideration. COP’s Motion is based on the first example listed in 43 C.F.R. 4.415, namely “a misinterpretation of fact.” Far from being a trivial or irrelevant issue, the alleged lack of economic viability of longwall mining in the Tank Seam was the essential **premise** of Castle Valley’s original request for modifying the R2P2 and the underlying **premise** of the BLM Decision appealed from. COP asserts that a fair reading of the Board’s June 21, 2012, Order demonstrates that that same **presumption** or **premise** (the purported “fact” that longwall mining in this mine was inherently uneconomical) was the foundation for the Board’s analysis. The problem is that that premise is fundamentally incorrect.¹

Castle Valley’s request for modification to the R2P2, and the BLM’s decision to approve the modification to change from longwall mining to room-and-pillar mining, were *premised* on this mistaken “fact.” The issue raised in COP’s Motion is neither “trivial” nor “irrelevant;” it is the single most salient issue in these appeals.

Royalties are calculated on tonnage of coal mined. Both COP and the United States will be shortchanged in eventual overall royalties received--because of this one erroneous premise in

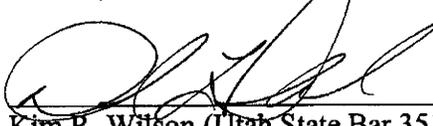
¹ Castle Valley likewise erroneously argues that COP did not address the regulation at 43 C.F.R. §4.403(c), which requires that a Motion for Reconsideration include the extraordinary circumstances that warrant reconsideration. As set forth in the Motion itself, the discussion in the Motion satisfies both of the “regulatory requirements.” By addressing, for example, the fact that Castle Valley mischaracterized the economic viability of longwall mining, as well as the other issues discussed, COP has, in fact, addressed the “extraordinary circumstances” that warrant reconsideration of the Board’s decision.

BLM's original decision and in the Board's erroneous adoption thereof. Castle Valley's argument rings hollow. Its statement, in its Answer to the Statement of Reasons, that C.W. Mining "longwalled itself into bankruptcy" was raised in support of its extended argument about the inappropriateness of longwall mining in this Mine and the associated need to change mining methodology to room-and-pillar. COP's reason for raising this issue is not because the BLM and Board misunderstood the reasons for C.W. Mining's involuntary bankruptcy. That fact truly would be irrelevant to these appeals. COP raises the issue *because Castle Valley erroneously told BLM, as well as this Board, that the change to room-and-pillar mining was necessitated by longwall mining's nonviability in this mine.* COP's arguments are no more trivial and irrelevant than they are motivated by "spite." Castle Valley has misrepresented salient facts to the BLM and this Board, and both COP and the United States are being directly harmed as a result.

COP renews its request for reconsideration and for administrative fact-finding.

Dated this 8th day of October, 2012.

SNOW, CHRISTENSEN & MARTINEAU



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on the 8TH day of October, 2012, a true and correct copy of the foregoing was delivered as noted below, in accordance with the applicable rules, to the following:

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