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DEPARTMENT OF NATURAL RESOURCES
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March 15, 1993

Mr. Robert H.Hagen, Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102

Dear Mr. Hagen:

Re: Corrections to Mine-Site Evaluation Inspection Report dated 2/24/93, Coastal States Energy Company, Southern Utah Fuel Company, Convulsion Canyon Mine, ACT/041/002, Folder #2 and #5, Sevier County, Utah

On February 24, 1992, an inspection was conducted at the Convulsion Canyon Mine. Russ Porter (OSM-AFO), participating in an oversight capacity, filed a Mine-Site Evaluation Inspection Report, a copy of which the Division received on March 8th, 1993. Some incorrect information is contained in the inspection report which misleads the reader and should be corrected. Problem sections are listed below.

Page 4 of the inspection report states the following:

> There are two things which the bond review has uncovered which need to be made a matter of record. Both issues are a program problem with DOGM and are as follows:
>
> 1. The permit was issued without the proper bond amount being posted with the Division. R645-301-820.100 specifically requires the proper bond to be on file with the DOGM prior to the issuance of the permit.
>
> 2. The bond documents which I have reviewed do not indicate the United States as a co-payee. Since Federal minerals are being mined by the company the Office of Surface Mining (OSM) must be shown as a co-payee on the bonding documents. This is required under the State-Federal cooperative agreement which DOGM is required to administer.

Page 7 of the inspection report states the following:

> ... R645-300.133.100 requires the permit application to be complete and accurate and in compliance with all State Program requirements before it is approved. This permit application did not meet the above requirements and should not have been approved. It was also noticed that DOGM published notification of the permit renewal allowing public input after the permit was issued. Notification was published in the Richfield newspaper on June 24, 1992 and in the Salt Lake newspaper on June 19, 1992. The permit was issued on May 20, 1992.

The Division provides the following information to correct false impressions given by the inspection report:

With respect to the permit being issued without proper bond: It should be pointed out that Coastal States Energy Company recently went through a permit renewal not a new permit application process. R645-301-820.100 is applicable for those operations wanting to obtain a new permit (the regulation reads "but before a permit is issued"). The permanent program permit was issued to Coastal States Energy Company on May 19, 1987 after an appropriate bond had been filed. During the renewal review, it was determined that the bond amount should be increased. The Division followed the appropriate procedure to adjust the bond amount as found in R645-301-830.400 and set a schedule for adjusting the bond amount as required. Coastal States complied and posted the bond.

With respect to the bond documents: The documents on file with the Division clearly show that "In the event the Cooperative Agreement between the Division and OSM is terminated, then the portion of the bond covering the Federal Lands will be payable only to the United States, Department of Interior, Office of Surface Mining." Please refer to the enclosed copy of the rider which became effective on August 2, 1991.

With regard to public notification requirements: The Division did provide for appropriate public notice of the application for permit renewal prior to the renewal date. Please refer to the enclosed affidavit of publication which was published from January 15, 1992 to February 5, 1992. The notice erroneously referred to in the inspection report was the notice of decision to renew a permit required by R645-300-152 which can only be done after the renewal is issued.

Although we would commend the OSM inspector for attempting to do a thorough job, we must be concerned when inaccurate statements are made in a public document. Statements such as "program problem" and "... should not have been approved" are judgements which have no part in an inspection report. The OSM inspector's report should be revised accordingly.

Hopefully, the information provided herewith will clarify the situation at the Convulsion Canyon Mine. The Division's interest is in complying with the cooperative agreement and our permanent program regulations. Please call if you have further questions.

Sincerely,

Lowell, P. Braxton
Acting Director

Enclosure
cc: D. Haddock
W. Western
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INSPREBU.SUF