M/037/088

LISBON VALLEY MINING CO
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FAX TRANSMISSION

DATE: 8/16/05

ATTN: Paul Baker

FROM: Lantz Indergard

NO OF PAGES (INCLUDING COVER SHEET): 2

MESSAGE:

Paul: Public Water Reserve description, as discussed.

RECEIVED
AUG 16 2005
DIV. OF OIL, GAS & MINING

Regards,

Lantz Indergard
Environmental Manager

The United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

Min. Title Examination

XI. Public Water Reserves

Numerous public water reserves are scattered across the public lands in the western states. By Executive Order of April 17, 1926, it was ordered "that every smallest legal subdivision of the public-land surveys which is vacant, unappropriated, unreserved, public land and contains a spring or water hole, and all land within one quarter of a mile of every spring or water hole located on unsurveyed public land be, and the same is hereby, withdrawn from settlement, location, sale, or entry and reserved for public use" (43 CFR 2311.0-3) in accordance with the provisions of section 10 of the Act of December 29, 1916, 39 Stat. 865; 43 USC 300.

By Executive Order 5389 of July 7, 1930 as amended by Public Land Order 399 of August 20, 1947, the same withdrawal criteria were applied to hot springs, or springs of water which possess curative properties provided by the Act of March 3, 1925; 43 Stat. 1133; 43 CFR 2311.0-3(b).

The Act of March 3, 1925 (43 Stat. 1133; 43 USC 971) authorizes the issuance of leases for tracts of land near or adjacent to mineral, medicinal, or other springs located upon unreserved public lands or lands withdrawn for the protection of springs. These leases are issued for a duration of 20 years for the purpose of construction bathhouses, hotels, or other improvements.

Although 30 USC 300 was repealed by section 704a of FLPMA on October 21, 1976 (90 Stat. 2792), the following clause was not repealed:

> That the withdrawal from entry of lands necessary to insure access by the public to watering places reserved hereunder shall not apply to deposits of coal and other minerals in the lands so withdrawn, and that the provisions of section 299 of this title are hereby made applicable to said deposits in lands embraced in such withdrawals heretofore or hereafter made, but any mineral location or entry made hereunder shall be in accordance with such rules, regulations, and restrictions as may be prescribed by the Secretary of the Interior.