



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

October 28, 2016

Co-Chair Senator David P. Hinkins
Co-Chair Representative Keven J. Stratton
Commission for the Stewardship of Public Lands
Utah State Capital House Building, Suite W210
P. O. Box 145210
Salt Lake City, Utah 84114-5210

Subject: Reporting Requirement in H.B. 276 of the 2016 General Session

Dear Senator Hinkins and Representative Stratton:

The Utah Legislature in the 2016 General Session passed H.B. 276, Utah Public Land Management Act, which requires a report by the Division of Oil, Gas and Mining (Division) to the Commission for the Stewardship of Public Lands (Commission). Specifically, in UCA 40-6-16 (2), "The Director shall, by October 30, 2016, report to the Commission regarding the Division's recommendations for how the state shall deal with oil, gas and mining issues in the Utah Public Land Management Act." This letter is written in accordance with this statutory reporting requirement.

Background information on the manner in which the Division's three regulatory programs primarily interface on federal land matters for the key responsibilities of permitting, bonding and inspection is initially provided:

A. Oil and Gas (O&G) Program: The O&G Program has coordinated with the Bureau of Land Management (BLM) for several decades in permitting, bonding and inspection; however some separate processes also exist. The O&G Program regulations apply to all lands in the state and this program is the central repository for locations of all oil and gas wells, the production from these wells, and other related information. The O&G Program receives applications for permit to drill (APD) for all proposed well locations. The BLM also receives the applications for wells on federal lands. In order to reduce duplication, Utah's O&G Program conducts the petroleum engineering analysis for the proposed downhole operations of the well on state and fee minerals and the BLM conducts the engineering analysis on federal mineral interests.

For bonding to ensure future reclamation, Utah's O&G Program ensures adequate bonding on state and fee minerals and the BLM ensures adequate bonding on federal mineral interests. For inspections, Utah's O&G Program has the authority to inspect all mineral interest types, but for efficiency purposes, Utah's O&G Program focuses on state and fee mineral and surface matters, and the BLM inspects federal mineral and surface interests.



B. Minerals Program: The Minerals Program has also coordinated with the BLM for several decades in permitting, bonding, and inspection; however some separate processes also exist. Utah's Minerals Program is the lead agency for the permitting of mineral mines, although BLM does require the mine operator to file a mine plan if the mine includes their interests. Utah's Minerals Program is the central point for reclamation bonding for all mineral interests in Utah, and the BLM requires their agency name be added to the bond for their federal interests. Finally, Utah's Minerals Program is the lead agency for inspections of the mineral mines in Utah, but the BLM employs field office staff to monitor the condition at the mines where they have interests.

C. Coal Program: The Coal Program has received state primacy from the Department of Interior's Office of Surface Mining Reclamation and Enforcement (OSM) to implement the Surface Mining Control and Reclamation Act (SMCRA), which was passed by the U.S. Congress in 1977 for the regulation of coal mining in the United States. The Coal Program performs the duties associated with permitting, bonding and inspection of all coal mines within Utah, regardless of the type of mineral interest. OSM conducts oversight, which includes joint and independent inspections by OSM, of Utah's Coal Program. OSM then conducts a federal mine plan approval subsequent to DOGM's initial efforts, for federal interests. OSM provides at least 75% of the funding for Utah's Coal Program.

The Division makes the following recommendations as requested in H.B. 276:

1. Federal mineral and surface title records, corresponding lease records, right of way records, and other title-related records are significant in both quantity and importance for the mining and oil and gas industries in Utah. Upon a transfer of federal lands to the state, to be managed by the Utah Division of Land Management per H.B. 276, a transition period would be appropriate for the development of critical computerized systems to manage the records and processes for the approximate 35,000,000 acres of federal interests currently addressed by BLM. A transition period would also be appropriate to coordinate with BLM staff, currently located in 11 field offices, 4 district offices, and the state office in Salt Lake City.

2. Knowing the land management processes for the 35,000,000 acres is very important to all parties, including oil, gas and mining stakeholders. While BLM currently conducts business under FLPMA and while the Utah Division of Land Management prospectively under H.B. 276 would also manage such public land under the principles of multiple use and sustained yield, questions have arisen on whether federal lands transferred to the State of Utah would follow the federal National Environmental Policy Act (NEPA) standards or if state processes would be controlling. Documents which acknowledge the transfer of federal lands to the State of Utah, e.g. congressional legislation, court documents, or other methods, should clarify the future use of federal NEPA on the transferred lands.

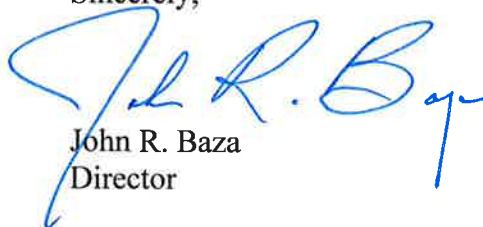
3. State agencies impacted by the transfer of public lands would be lacking necessary funding to accomplish their respective statutory duties. For the Division, additional funding would be necessary for the O&G Program to address needs for additional engineering services, field inspection, and record keeping staff. For the Division's Coal Program, the services to be provided would be nearly the same as the current state primacy method discussed earlier, but OSM would no longer federally fund this program at the current \$1,600,000 to \$2,100,000 level without the high percentage of federal lands, thus requiring state funds to implement the Coal Program.

Utah's Division of Land Management would also require significant state funding by the Legislature to implement the management of the transferred lands. As identified previously, a transitional period is also a recommendation by the Division, so state funding would be necessary for this period also. The Legislature should consider action to appropriate state funding to state agencies impacted by the transfer of public lands, for the transitional and the implementation phase.

4. Given the multitude of actions that would be necessary to implement a full transfer of the 35,000,000 acres of public lands under BLM management within Utah, the Division suggests a pilot area be considered prior to full implementation. Examples of a pilot area could be a portion of a county, an entire county, a BLM Field Office, or a BLM District Office and respective BLM Field Offices. Pilot projects have served well in many areas of business and state management, and may likely prove beneficial in this matter also.

If there are additional questions, I can be reached at 801-538-5334.

Sincerely,

A handwritten signature in blue ink, appearing to read "John R. Baza". The signature is stylized and fluid, with a long horizontal stroke at the end.

John R. Baza
Director