



United States Department of the Interior

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Appalachian Region
Three Parkway Center
Pittsburgh, Pennsylvania 15220

NOV - 4 2008

John Hanger, Acting Secretary
Department of Environmental Protection
Rachael Carson State Office Building, 16th Floor
P.O. Box 2063
Harrisburg, Pennsylvania 17105-2063

Dear Mr. Hanger:

As part of its oversight responsibilities under the Surface Mining Control and Reclamation Act (SMCRA), the Office of Surface Mining Reclamation and Enforcement (OSM) monitors and evaluates conditions and events affecting each State's coal mining regulatory program and the regulatory authority's ability to implement this program. If, in accordance with 30 CFR 732.17, OSM determines that an approved State program no longer meets all Federal requirements, it may require amendment of that program.

On July 8, 2008, I sent to Secretary McGinty, a revised Part 732 Notification ("732 letter"), pursuant to 30 CFR 732.17. That letter was issued in response to the United States Court of Appeals for the Third Circuit's decision in *Pennsylvania Federation of Sportsmen's Clubs Inc. (PFSC) et.al. v. Kempthorne*, 497 F.3d 337 (3rd Cir. 2007) and the United States District Court's November 1, 2007, Order on Remand in *PFSC v. Kempthorne*, No. 1:03-CV-2220 (M.D. Pa.). At issue in these cases was whether, in 2003, OSM properly terminated a requirement, dating from 1991, that Pennsylvania demonstrate that its Surface Mining Conservation and Reclamation Fund was in compliance with 30 CFR 800.11(e). The Third Circuit, and the district court on remand from the Third Circuit, set aside our termination of an October 1, 1991, 732 letter.

Subsequent to the issuance of the July 8, 2008, revised 732 letter, the PFSC, along with the other Plaintiffs, filed a Motion to Reopen, to Substitute Party, and for Contempt in the *PFSC v. Kempthorne*, matter. The Plaintiffs alleged that the Federal Defendants were in contempt of the district court's November 1, 2007, Order on Remand from the Third Circuit decision. In order to resolve the matter of the contempt proceeding, and without admitting any liability with respect to the Plaintiffs' allegations put forth in said proceeding, we agreed to rescind the July 8, 2008, revised 732 letter. Thus, any potential conflict with the district court's, Order on Remand, which set aside our decision to terminate the 732 letter from 1991, is hereby removed. The rescission of the July 8, 2008, 732 letter is effective upon receipt of this letter.

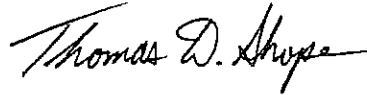


Mr. John Hanger

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Please contact me at (412) 937-2828 if you have any questions with respect to this matter.

Sincerely,

A handwritten signature in black ink that reads "Thomas D. Shope". The signature is written in a cursive style with a long horizontal stroke at the end.

Thomas D. Shope
Regional Director