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State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

*Utah*  
*CC Paen*  
OK

Michael O. Leavitt  
Governor

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Executive Director

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September 16, 2003

Lowell P. Braxton, Director  
Utah Division of Oil Gas & Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, UT 84114-5801

Re: Review of Memorandum of Understanding (MOU) dated January 21, 1980

The Utah Division of Water Rights is currently in the process of reviewing all of its Memorandums of Understanding to determine if they are still appropriate and serving the intended purpose, or whether they need to be eliminated or modified. Attached is the MOU we have with your division which was executed on January 21, 1980.

Would you please review the MOU to determine if it covers all of the necessary items to result in an efficient exchange of information. Following your review, please inform me or Richard Hall of any modifications you feel are appropriate.

Sincerely,

*Jerry D. Olds*  
Jerry D. Olds, P.E.  
State Engineer

JDO/jm

Enclosure

cc: Robert L. Morgan - Executive Director  
Mark Page - Regional Engineer

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WATER RIGHTS  
SALT LAKE

1. a.

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE UTAH DIVISION OF OIL, GAS, AND MINING  
AND  
THE UTAH DIVISION OF WATER RIGHTS,  
DAM SAFETY SECTION

The Utah Division of Oil, Gas, and Mining (DOGGM) and the Utah  
Division of Water Rights, Dam Safety Section (Dam Safety) hereby enter  
into a memorandum of understanding this 21<sup>st</sup> day of January, 1980.

ARTICLE I - PURPOSE

This memorandum of understanding provides an operating agreement by  
which DOGM as lead agency and Dam Safety as consulting agency shall  
execute their respective responsibilities concerning regulation of the  
impacts of surface and underground coal mining activities on water  
retention facilities in the State.

ARTICLE II - POLICY

The DOGM is the designated regulatory authority for the State of  
Utah responsible for implementation and enforcement of a statewide  
program for the regulation of coal mining and reclamation activities  
under State and federal law. Dam Safety has the responsibility to  
assure the safety of water retention facilities which may be developed  
at a mine site. (Section 73-5-5-12, Utah Code Annotated 1953, as amended.)

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Therefore, it is the mutual desire of the DOGM and Dam Safety to work in harmony for the common purpose of preserving the water resources of the State and assuring the safety of water retention facilities developed at a mine site.

### ARTICLE III - ADMINISTRATION

#### A. Pre-design Consultation.

1. When the DOGM is contacted by an operator who is intending to mine coal in sufficient quantities to require a permit to conduct such activities, the DOGM will notify Dam Safety of the proposed development. Such notification will include a legal description or map of the proposed location and adjacent areas, a description of the size of the proposed impoundments and the proposed duration of mining activities.

2. Dam Safety will respond to the DOGM and the operator within 2 weeks of notification, concerning state specifications for water retention facilities proposed at the mine site.

#### B. Mine Plan Review.

1. Upon submission of a mining and reclamation plan to DOGM, the DOGM will forward a copy of the mining and reclamation plan to Dam Safety. If information additional to that contained in the operator's submission is required, Dam Safety is responsible for contacting the operator to obtain such information. Copies of such requests and also copies of the company's submittal in response to the request will be submitted to DOGM.

2. Within 30 days of receipt of the mining and reclamation plan, Dam Safety shall contact DOGM with their final response to the agency's proposed action on the operator's application.

3. If Dam Safety proposed to reject the plan for failure to meet water retention safety standards the DOGM will call a conference between the state and the operator at the earliest possible date.

C. Existing Authority.

1. Nothing in this Memorandum of Understanding nor in the above mentioned laws and regulations concerning coal mining and reclamation shall interfere with Dam Safety's administration of Section 73-5-5 through 12, Utah Code Annotated 1953, as amended.

ARTICLE IV - TERMINATION

This memorandum of Understanding shall become effective when signed by the respective parties to this agreement. The memorandum shall remain in force until terminated by mutual agreement, or by either party upon thirty (30) days written notice to the parties. Amendments to this agreement may be proposed by either party and shall be adopted upon written agreement by all parties.

Approved this 21<sup>st</sup> day of January, 1980 by the following parties:

*Dee C. Hansen*  
DIVISION OF WATER RIGHTS  
~~DAM SAFETY SECTION~~  
STATE ENGINEER

*Clayton B. Foy*  
DIVISION OF OIL, GAS AND MINING

*STATE ENGINEER*  
TITLE

*Director*  
TITLE

Approved as to form:

*Denise A. Rogers*  
SPECIAL ASSISTANT ATTORNEY GENERAL