

0031

File OSM/Evaluation
2005

October 13, 2004

cc: Pam
Wayne
Mark

To: Mitch Rollings, OSM

From: Huntington Cleveland Irrigation Company (HCIC)
Cottonwood Creek Consolidated Irrigation Company (CCCIC)
Muddy Irrigation Company (MIC)
Ferron Canal and Reservoir Company (FCRC)

RECEIVED

OCT 26 2004

DIV. OF OIL, GAS & MINING

RE: Water Rights - Affects of mining and industrial activity

This letter is to clarify the position of the above listed irrigation companies in regards to the affects of mining on water rights in their drainages.

The water in San Rafael River and Muddy Creek drainage is fully appropriated. Any activity that affects water in these drainages directly affects the appropriated rights of that drainage.

If mining in a particular drainage diverts water from that drainage, or in any other way affects the yield of that drainage, now or in the future, that water must be replaced or a settlement mitigated so that those holding the water rights are not harmed in any way. All water in a drainage is hydrologically related. When water is removed from a mined area it will be replaced with surface water which would otherwise enter the appropriated system. It doesn't matter if that water is determined to be so-called old water or water flowing from a spring. If it is lost or removed from that drainage, it is the responsibility of the mining company to replace or satisfactorily mitigate the impact of their actions.

The regulatory agencies are responsible to safeguard the water users in this regard. It is the responsibility of DOGM to enforce the state laws and see that this replacement or mitigation occurs in a timely manner. Further, it is the responsibility of DOGM to include the cost of water replacement as part of the mine's reclamation bonding.

The Skyline Mine has, and is, pumping thousands of acre feet of water from the Huntington Creek drainage into the Price River drainage, resulting in water shortages to irrigators and industry who hold the appropriated water rights on Huntington Creek.

SUFCO Mine continues to pump water from the Muddy Creek drainage into the Quitchupah drainage, resulting in hundreds of acre feet unavailable to the users and owners of the appropriated water rights on the Muddy Creek.

We have witnessed the drying up of natural springs on the Gentry Mountain, Bear Canyon, East Mountain (Roans Canyon), Trail Mountain, and on the Muddy Creek drainage. All

of these areas are underlaid by miles of mined tunnels and subsidence due to long wall mining.

We have observed proposals by the mining industry to place the water back into its proper drainage blocked by the U.S. Forest Service because of water quality issues.

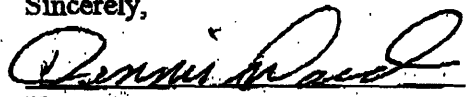
The State Engineer has avoided involvement even when vast quantities of water flow from the mine portal and/or discharge points and run into drainages which had previously contained much less water.


We have seen a quagmire of Federal and State regulations running in conflict, and to the detriment of the water rights on our drainages.

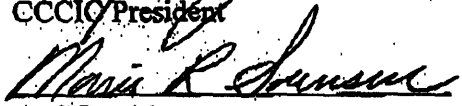
It is our position that the regulating agencies have been derelict in their responsibility to protect this important resource on which our communities and our livelihood depend.

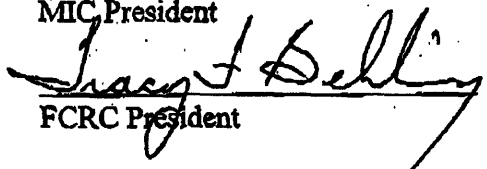
We request that OSM investigate this ever growing problem and offer a plan of relief to the water users of Emery County. In order to prevent costly litigation, we are willing to participate in any conference that you may arrange. We request that any such meetings be held in the Emery County Court House in Castle Dale.

Sincerely,


HCIC President


CCCIC President


MIC President


FCRC President

- cc: Brad Johnson
- Emery County Commissioners
- Emery County Public Land Committee
- Kent Peterson, DOGM Board
- Jerry Olds, State Engineer
- Mark Page, State Engineer
- Lowell Braxton, DOGM
- Susan White, DOGM
- Mary Ann Wright, DOGM