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## United States Department of the Interior

OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
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Denver, Colorado 80201-6667

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MAR 28 2005

March 24, 2005

U.S. DEPT. OF OIL, GAS & MINING

2005

*General  
Interagency*

Mary Ann Wright, Acting Director  
Utah Division of Oil, Gas and Mining  
1549 West North Temple, Suite 1210  
P O Box 145801  
Salt Lake City, UT 84114-5801

Dear Ms. Wright:

We received your letter dated March 4, 2005, explaining Utah's regulatory program regarding impacts of coal mining on water resources and appropriated water rights due to a letter from four irrigation companies.

Your response is limited to a statement that the rules regarding water replacement do not apply if a loss of state appropriated water cannot be determined. You also state that you have and will continue to meet with the Utah Division of Water Rights to assure protection of the hydrologic balance. You note that during the January 19, 2005, meeting with the water users we observed that the Division is committed to continuing to meet and work with the irrigation companies to address these and other water issues. I agree with these statements, however I believe further details from you are required for the Office of Surface Mining (OSM) to conclude its review of the water user's concerns.

During the January 19<sup>th</sup> meeting I recall that the Division of Oil, Gas and Mining (DOGM) made several extremely important commitments to the water users and OSM. The meeting was in part a response to our letter to you dated November 15, 2004. In that letter we cited relevant requirements of the Utah regulatory program. These included Rule 645-301-731.530, which requires; "the permittee will promptly replace any State-appropriated water supply that is contaminated, diminished or interrupted by underground coal mining and reclamation activities conducted after October 24, 1992, if the affected water supply was in existence before the date the Division received the permit application for the activities causing the loss, contamination or interruption. The baseline hydrologic and geologic information required in Rule 645-301-700, will be used to determine the impact of mining activities upon the water supply." Other rules require information in the permit application regarding the identification of such water resources and the impacts the mining and reclamation activities are projected to have on them. We asked that DOGM provide an explanation of the Utah regulatory program requirements with regard to impacts on water resources and rights described in the companies' letter.

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During the meeting with the water users on January 19, 2005, DOGM representatives gave a very satisfactory explanation of the program requirements with regard to impacts on water resources and rights. This included several commitments including that during the permitting process DOGM would determine the potential impacts on State appropriated water. If appropriated water would be impacted (lost, contaminated, or interrupted) the permit would include provisions for replacement. The permit would also require sufficient monitoring to detect impacts to appropriated water during the mining and reclamation operation. If monitoring detects that State appropriated water is contaminated, lost or interrupted, State rule 645-301-731.530 requires the water to be replaced promptly by the permittee. This performance standard applies whether the impacts are anticipated or unexpected. There was discussion that water encountered during mining should be discharged to its drainage basin. DOGM also made a commitment to reach out to water users during the permitting process.

I had expected that your follow-up letter would include these commitments. OSM is required to send the water users a letter concluding our review of their concerns. I believe it is imperative for OSM to specify to the water users how DOGM intends to administer its regulatory program. This would include listing the commitments made during the January 19<sup>th</sup> meeting. To accomplish this we must receive a letter from DOGM detailing those commitments.

If you have any questions, call me at 303-844-1400, ext. 1424.

Sincerely,



James Fulton  
Chief, Denver Field Division

cc: Mark Mesch, DOGM ✓  
Susan White, DOGM  
Mitch Rollings