



IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

April 18, 2005

Mr. Dennis Ward, President
Huntington Cleveland Irrigation Company
P.O. Box 327
Huntington, UT 84528

Mr. Craig Johansen, President
Cottonwood Creek Consolidated Irrigation Company
P.O. Box 678
Orangeville, UT 84537

Mr. Morris Sorensen, President
Muddy Irrigation Company
Emery, UT 84522

Mr. Tracy Behling, President
Ferron Canal and Reservoir Company
Ferron, UT 84523

Subject: Response to 2004 Public Outreach Letter

Dear Sirs,

The Department of the Interior, Office of Surface Mining Reclamation and Enforcement (OSM) received your October 13 response to a public outreach letter. The letter outlines the positions of your companies with regard to the effects of underground coal mining on water in Emery County. You identified various State and Federal agencies which have been involved and requested that OSM investigate the Emery County water issues.

OSM has oversight authority in the regulation of coal mining in the State of Utah to ensure that the Division of Oil, Gas, and Mining (OGM) is properly implementing its approved coal regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oversight, in part, is the process by which OSM determines whether or not OGM is interpreting the Utah regulations in a manner licensed by its approved program. If any particular regulation may have different interpretations under the license of the approved program, OGM defines that which suits the needs of the State of Utah. OSM has no oversight or other authority over other State or Federal entities in Utah.

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DIV. OF OIL, GAS & MINING

OSM and OGM have discussed the nature of your concerns. OGM also met with your companies and OSM in Emery County in an effort to clarify its interpretation of the Utah approved SMCRA program and how OGM implements those requirements. OGM has also discussed the issue with the Utah Division of Water Rights.

Utah regulation R645-301-731.530 states that "the permittee will promptly replace any State-appropriated water supply that is contaminated, diminished or interrupted by underground coal mining and reclamation activities...OGM will use the baseline hydrologic and geologic information required in Rule 645-301-700, to determine the impact of mining activities upon the water supply" In addition to the information required by R645-301-700, the Utah program requires a continued monitoring of any waters identified and selected during the mine permitting process. All identified waters are not monitored, only those selected during the permitting process. By its rules, OGM must use this baseline information to determine the impact of mining activities upon the water supply.

In its letter dated December 1, 2004, OGM has concluded that it has not been able "to detect any loss, contamination or interruption to streams, springs, or wells that cannot be explained by the ongoing five-year drought" and "that until an observed change in water quantity or quality is detected by OGM, or that data is presented by the irrigation companies the mines cannot be required to replace the water." In its April 15, 2005 letter, OGM continues to declare that it has not found State-appropriated water linked to the baseline hydrologic or geologic information to be contaminated, diminished, or interrupted.

Also in its April 15 letter, OGM recognizes the importance of input from local sources during the permitting phase. As stated at the Emery meeting, it is important for your local input to identify water sources you believe may be the most impacted by mining activities. These sources can then be made a part of the baseline information and possibly be monitored.

Attached are copies of the three letters from OGM in which it explains how it interprets the Utah regulations. In the letters, OGM states it is committed to the regular meetings with water users, continued study of submitted data and information, and will require mine operators to replace water if monitoring detects that State appropriated water is contaminated, lost, or interrupted.

If you have any questions, you may contact me at 303-844-1400, extension 1445.

Respectfully,



Mitchell S. Rollings
Regulatory Program Specialist

Attachments:

Letter dated 12/1/2004 from OGM to OSM

Letter dated 3/4/2005 from OGM to OSM

Letter dated 4/15/2005 from OGM to OSM

CC w/o attachments:

Mary Ann Wright, DOGM

Mark Mesch, DOGM