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*Inter-agency Correspondence*

IN REPLY REFER TO:

## United States Department of the Interior

*gk*

OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
P.O. Box 46667  
Denver, Colorado 80201-6667

February 28, 2008

Mr. John Baza, Director  
Utah Division of Oil, Gas & Mining  
Coal Regulatory Program  
1594 West Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

RE: Processing of Mining Plans by OSM (Permit Area as the Disturbed Area)

Dear Mr. Baza:

I am writing in response to your letter of January 8, 2008, regarding the above subject. Based on discussions between Mary Ann Wright and Billie Clark, I understand that your concern focuses on how OSM would administer the regulations under 30 CFR Part 746 and process Federal mining plans and mining plan modifications if you exclude the shadow area (i.e., the area above the underground mine workings) from the permit area of underground mines. As discussed below, this change would have no impact on the processing of Federal mining plans and mining plan modifications.

Under the Utah Division of Oil, Gas & Mining's (DOGM's) current practice of including the shadow area for an underground mine in the permit area, OSM prepares a mining plan or mining plan modification recommendation for all of the federally leased coal within the permit area for which DOGM has found the permit application complete and in compliance with all the requirements of the Utah state program.

Under 30 CFR 746.17(a), "[e]ach mining plan approval shall cover the operations for which a complete permit application package was submitted, unless otherwise indicated in the approval." The term "operations" includes both underground and surface activities; it is not limited to the permit area. Therefore, if Utah adjusts its interpretation of permit area to exclude the shadow area, we will continue to prepare a mining plan or mining plan modification recommendation that includes all federally leased coal to be mined as a result of the permitting action, regardless of whether the land containing the coal is located within the permit area.

Excluding the shadow area from the permit area does not mean that a permit applicant need not submit information for the shadow area. Many permit application requirements for underground mines in 30 CFR Parts 783 and 784 apply to both the permit area and the adjacent area. In the context of the hydrologic and geologic information requirements of 30 CFR 784.14 and 784.22, the adjacent area clearly includes the shadow area. Similarly, in the context of the mapping and



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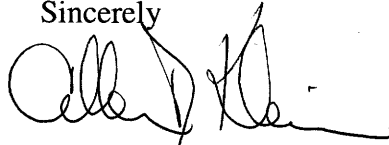
DIV. OF OIL, GAS & MINING

presubsidence survey requirements of 30 CFR 784.20(a), the adjacent area includes the shadow area. Likewise, under 30 CFR 783.24(c), a complete permit application must include maps showing the boundary of the area to be affected, which includes the area overlying the underground workings.

Thus, any proposed change in the extent of the underground workings would require a revision of the approved permit application. Such revision would trigger an OSM review to determine whether the proposed revision constitutes a mining plan modification under 30 CFR 746.18(c) and (d).

In summary, if Utah changes its application of "permit area" to exclude the shadow area, there will be no change in the way OSM processes Federal mining plans and mining plan modifications because changes to operations in Federal coal leases will continue to require revision of the approved permit regardless of whether there is any change in the disturbed area.

Sincerely

A handwritten signature in black ink, appearing to read 'Al Klein', written over a horizontal line.

Al Klein  
Regional Director  
Western Region

cc: BLM, UT