

From: "Carl Johnston" <cjohnsto@osmre.gov>
To: <James_Kohler@blm.gov>, <Stan_Perkes@blm.gov>, <creed01@fs.fed.us>, <dharber@fs.fed.us>, <Diana_Whittington@fws.gov>, <laura_romin@fws.gov>, <pamgrubaughlittig@utah.gov>, <sheilamorrison@utah.gov>, <waynehedberg@utah.gov>
Date: 2/23/2005 7:47:50 AM
Subject: Mine Plan Determination - Hiawatha

Attached is OSM's final decision regarding the need for a Mining Plan Modification for the above subject. A signed copy will be sent to you in today's mail.

In accordance with the Federal regulations under 30 CFR 740.13(d), other Federal agencies that may have an interest in, or jurisdiction over, the above subject operation have also been notified of OSM's decision electronically.

No responses to this transmittal are necessary.

Carl R. Johnston
Natural Resource Specialist
OSMRE / WRCC / PSD / NWB
P.O. Box 46667
Denver, CO 80201-6667

Courier Delivery to: 1999 Broadway, Suite 3320

303 / 844-1400 - ext. 1500
Fax: 303 / 844-1538
e-mail: CJOHNSTO@OSMRE.GOV

CC: "Mitchell Rollings" <MROLLING@osmre.gov>, "Ranvir Singh" <RSINGH@osmre.gov>

UT-0006

February 23, 2005

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

RE: Hiawatha Coal Company - "Hiawatha" Mine - Application for a Permit Revision,
Discharge Amendment

Dear Sir or Madam:

This is in response to the Utah Division of Oil, Gas, & Mining's (UT-DOGM) February 4, 2005, request for a decision, under 30 CFR 944.30, whether the above subject permit revision constitutes a mining plan modification.

Mining plan approvals by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on Federal lands. This letter serves to document OSM's determination whether or not a mining plan approval from the Secretary is required for the above permitting action.

OSM's review of the Application for a Permit Revision, Discharge Amendment, has determined that it proposes to make minor text changes and to add UPDES Permit UT0023094, as Appendix 7-5 to the approved permit application package for the Hiawatha mine, Utah State permit C/007/001.

Based on a review of the activities associated with the permit revision, OSM has determined that the proposal does not meet the requirements of 30 CFR 746.18(d). Therefore, the proposed permit revision does not constitute a mining plan action requiring Secretarial approval.

OSM's decision was based solely upon the Federal regulations under 30 CFR PART 746 and not the technical aspects of the revision application itself. Consequently, OSM's decision does not relieve UT-DOGM from coordinating the review and approval of the Application for a Permit Revision, Discharge Amendment, with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the February 4, 2005, request to the Bureau of Land Management and the U.S. Forest Service for their review and comment.

In an electronic transmittal dated February 7, 2005, the U.S. Forest service stated it had no comments or concerns with the Discharge Amendment.

In an electronic transmittal dated February 22, 2005, the Bureau of Land Management stated in its opinion the Discharge Amendment not constitute a mining plan action requiring Secretarial approval.

Please notify the applicant of our decision on this matter.

Should you have any questions regarding this letter or approval, please contact Carl R. Johnston, Utah Federal Lands coordinator, at (303) 844-1400, extension 1500.

Sincerely,

Ranvir Singh
Manager, Northwest Branch

cc: BLM - Utah State Office
BLM - Price Field Office
USFS - Manti-La Sal NF
Denver Field Division