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United States Department of the Interior

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

IN REPLY REFER TO:

UT-0078

November 26, 2004

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

Moving
C/007/0035

RE: Sunnyside Cogeneration Associates "Sunnyside Refuse and Slurry" Mine - Application for a Permit Revision, Excess Spoil Disposal Area #2

Dear Sir or Madam:

This in response to the Utah Division of Oil, Gas, & Mining's (UT-DOGM) October 27, 2004, 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, Excess Spoil Disposal Area #2, has determined that it proposes to reconfigure the slopes of Excess Spoil Disposal Area #2 to increase storage capacity without changing the actual surface area footprint at the Sunnyside Refuse and Slurry mine, Utah State permit C/007/035.

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, Excess Spoil Disposal Area #2 with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the October 27, 2004 request to the Bureau of Land Management and the U.S. Forest Service for their review and comment.

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In an electronic transmittal dated November 1, 2004, the Bureau of Land Management stated in its opinion in the Application for a Permit Revision, Excess Spoil Area #2 did not constitute a change that would warrant a mining plan modification.

The U.S. Forest service did not provide any comments in the thirty day time frame established by the Federal regulations under 30 CFR 944.30, Article VI. D.

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

Ranvir Singh
Manager, Northwest Branch

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