

From: "Carl Johnston" <CJOHNSTO@osmre.gov>
To: <DARONHADDOCK@utah.gov>
Date: 10/20/03 11:37AM
Subject: Mine Plan Determination - Dougout Ch 7 Update

Attached is OSM's preliminary 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.

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: <George_Tetreault@blm.gov>, <James_Kohler@blm.gov>, <creed01@fs.fed.us>, <Diana_Whittington@fws.gov>, <laura_romin@fws.gov>, "Mitchell Rollings" <MROLLING@osmre.gov>, "Ranvir Singh" <RSINGH@osmre.gov>, <PAMGRUBAUGHLITTIG@utah.gov>, <sheilamorrison@utah.gov>

UT-0041

October 20, 2003

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: Canyon Fuel Company, LLC - "Dugout Canyon" Mine - Application for a Permit Revision, Chapter 7 Update

Dear Sir or Madam:

This in response to the Utah Division of Oil, Gas, & Mining's (UT-DOGM) September 24 2003, request for a decision, under 30 CFR 947.30, 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, Chapter 7 Update, has determined that it revises the text in Chapter 7, "Hydrology" to reflect changes in a sediment pond's design characteristics resulting from recent clean-out operations at the Dugout Canyon mine, Utah State permit C/007/039. Although mentioned in the permit revision application a revised Plate 7-4, "As-built" was not included with the electronic file sent for OSM's review.

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 746.11(a) and 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, Chapter 7 Update with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the September 24, 2003 request to the Bureau of Land Management and the U.S. Forest Service for their review and comment.

In an electronic transmittal dated September 24, 2003, the U.S. Forest service stated that it had no comments on the application.

In an electronic transmittal dated October 20, 2003 dated the Bureau of Land Management stated that, in it's opinion, the Chapter 7 Update does not represent a change that would require a Mining Plan Modification.

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: Denver Field Division