0018

Incoming
C/007/0039
#3218

From: "Carl Johnston" <CJohnston@osmre.gov>
To: <betsy_herrmann@fws.gov>, "Harber, Dale" <dharber@fs.fed.us>, "Howard St...
Date: 3/23/2009 11:12 AM
Subject: Mining Plan Determination - Dugout Canyon
Attachments: Dugout.Ch3.doc

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 / WR / FOB / NWB

P.O. Box 46667

Denver, CO 80201-6667

Courier delivery: 1999 Broadway, Suite 3320

Denver, CO 80202

(303) 293-5038

Fax: (303) 293-5032

e-mail: CJOHNSTO@OSMRE.GOV

UT-0041

March 23, 2009

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 3 Update, Task No. 3218

Dear Sir or Madam:

This is in response to the Utah Division of Oil, Gas & Mining's (UT-DOGM) February 18, 2009, 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, Chapter 3 Update, has determined that it proposes to revise the text in Chapter 3 of the approved Permit Application (PAP) in the sections discussing the "Refuse Pile Amendment", the "Degasification Well Amendment" and the "Mining and Reclamation Plan" to address changes in raptor surveys and protection commitments at the Dugout Canyon mine, Utah State permit C/007/0039.

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, Chapter 3 Update, with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the February 18, 2009, request to the Bureau of Land Management and the USDA Forest Service for their review and comment.

In an electronic submittal dated February 19, 2009, the USDA Forest Service stated it had no comments or concerns with the permit revision application.

The Bureau of Land Management 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) 293-5038.

Sincerely,

Robert Postle
Chief, Field Operations Branch

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