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State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

BA

July 25, 2008

Gina Rau, Environmental Manager
Headwaters, Incorporated
10653 South Rivert Front Parkway, Suite 300
South Jordan, Utah 84095

Subject: 2000 ton Test Burn, Headwaters, Inc., COVOL Processing Facility, C/007/0045

Dear Ms. Rau:

The Division received your request to run a 2000-ton test burn of material from the Emery Deep Mine's large refuse pile. You state this additional test is needed because it is from a different pile than previously tested, and you need a more representative sample. You wish to begin removing coal from the mine site on July 28.

On March 13, 2007 Ms. Mary Ann Wright authorized the COVOL Facility to "process coal waste from existing permitted sites while COVOL completes the permitting process," if Headwaters posted bond and submitted an administratively complete permit application. Both conditions have been met. The Division does not wish to change the arrangement at this time, and appreciates COVOL's cooperation and willingness to comply with our regulatory requirements. Therefore, you may go forward with the removal of the 2000 tons and the test burn.

Because the Emery Deep Mine is a permitted facility, they must dispose of any refuse material in an approved manner under the Utah Coal Rules. As a result, the Division may require COVOL to be fully permitted before allowing Consol to ship more than the 2000 tons to your facility. The Division is willing to meet with you at your convenience to discuss the deficiency document we recently sent you, and to do our part in timely reviewing the additional information we asked you to provide.

If you have any questions, please call me at (801) 538-5320.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana Dean".

Dana Dean, P.E.
Associate Director - Mining

cc: John Gefferth, Consolidation Coal Company
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