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U-64375
U-49332
U-082996
(UT-066)
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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Moab District
Price River Resource Area
125 South 6th West
Price, Utah 84501

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Certified No. P 118 951 478

Mr. J. R. Key
Director, Technical Services
PacifiCorp
One Utah Center
201 South Main, Suite 2000
Salt Lake City, Utah 84140-0020

SEP 25 1995

Re: Final Decision: Trill Mountain Mine Resource Recovery and Protection Plan (R2P2),
Minor Modification Request

Dear Mr. Key:

In the matter of PacifiCorp's December 5th minor modification request, the Bureau of Land Management (BLM) has reached a final decision. At this time, BLM hereby gives official notice that the December 5th minor modification request is denied. The applicant's request has been denied for failure to recover reserves that are economically recoverable as defined under the term "Maximum Economic Recovery (MER)," 43 CFR § 3480.0-5(21).

As a result of an exhaustive review of the applicant's submitted documentation, our determination has been rendered and predicated on the following reasons:

1. The reserves in areas I, II, and III and areas designated with high ash concentration, not indicated for extraction, are in fact economically recoverable (Enclosure 1). The burden of demonstrating that such coal cannot be recovered economically rests with the applicant/lessee. The lessee has failed to demonstrate that these reserves are not economically recoverable. At the time of BLM's determination, consideration was given to: the existing technology along with equipment capabilities/capacities; safety; coal quantity, quality and available coal processing facility; and marketability. BLM finds that the lessee has not exhausted the available alternatives to bring about the economic recovery of the reserves in question. As to the alternative explored by PacifiCorp, they failed to demonstrate the coal could not be recovered economically. Therefore, the reserves in question will be mined in accordance with Federal regulations found at 43 CFR § 3400. BLM will modify its decision upon receipt of documentation which provides these reserves cannot be recovered economically based upon MER.

2. In regard to recoverable reserves in the area west of 5th Left and south of the 8th Right on Federal coal lease U-64375, the lessee was required to project and mine to lease boundary in accordance with Federal regulations at 43 CFR § 3484.1(c)(6)(i). The lessee's failure to

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optimize longwall panel length consistent with lease boundary bypasses, renders unminable and sterilizes recoverable reserves. The lessee failed to demonstrate why these reserves are unminable.

3. BLM finds the protective barrier pillars at the Trail Mountain Mine are oversized in comparison to barriers designed using standard industry empirical formulas. The standard industry operating practices of this region currently incorporate these standard industry empirical formulas in the design of protective barrier pillars. PacifiCorp has failed to demonstrate why the existing mining and geological conditions at the Trail Mountain Mine warrant such oversized barrier pillars, which results in the unnecessary wasting of recoverable reserves. Accordingly, this does not comply with the Mineral Leasing Act of 1920, as amended, the regulations at 43 CFR § 3480, the lease terms and stipulations, and will not achieve maximum economic recovery of the Federal coal.

Currently, the Trail Mountain Mine is operating under interim approval to afford the day-to-day operation to continue uninterrupted with regard to the newly proposed mining sequence. As a result of the interim approval allowing the development to continue, the likelihood of immediate and irreparable harm may occur to the Federal mineral estate, due to the increased potential to sterilize recoverable reserves. No further mining shall take place under the proposed modification plan beyond interim approval as granted by letter dated August 30, 1995, from our office. The August 30th approval allowed for the continuation of the 3rd East gateroad entries up to, but not including, the proposed setup room. However, the lessee may proceed with extraction consistent with the existing approved R2P2 as submitted by ARCO.

Appeal Rights

You have 30 days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 day of receipt of this letter. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;

- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

If you have any questions, please contact Barry Grosely in the Price River Resource Area at (801) 636-3606.

Sincerely,

Mark E. Bailey
Area Manager

2 Enclosures

- 1. Proposed R2P2
- 2. Appeal Form 1842-1

cc: UT-921, SD, Utah (w/Enclosure 1)
 UT-065, DM, Moab (w/Enclosure 1)
 Frederick W. Buckman
 President & CEO
 PacifiCorp
 700 NE Multnomah Suite 1600
 Portland, Oregon 97232 (w/Enclosure 1)
 Morgan Moon
 Manager, Technical Services
 Energy West Mining Company
 15 North Main
 Huntington, Utah 84508 (w/Enclosure 1)
 Steve E. Kochevar, PE
 Mining Planning Administrator
 PacifiCorp
 One Utah Center
 201 South Main, Suite 2000
 Salt Lake City, Utah 84140-0020 (w/Enclosure 1)

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Form 1542-1
(February 1985)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

- 1. This decision is adverse to you,
AND
- 2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE
NOTICE OF APPEAL District Manager
Bureau of Land Management
P.O. Box 970
Moat, Utah 84532

SOLICITOR
ALSO COPY TO Regional Solicitor, Intermountain Region
U.S. Department of the Interior
Room 6201 Federal Bldg.
125 So. State Street
Salt Lake City, Utah 84138

3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

SOLICITOR
ALSO COPY TO Regional Solicitor, Intermountain Region
U.S. Department of the Interior
Room 6201 Federal Bldg.
125 So. State Street
Salt Lake City, Utah 84138

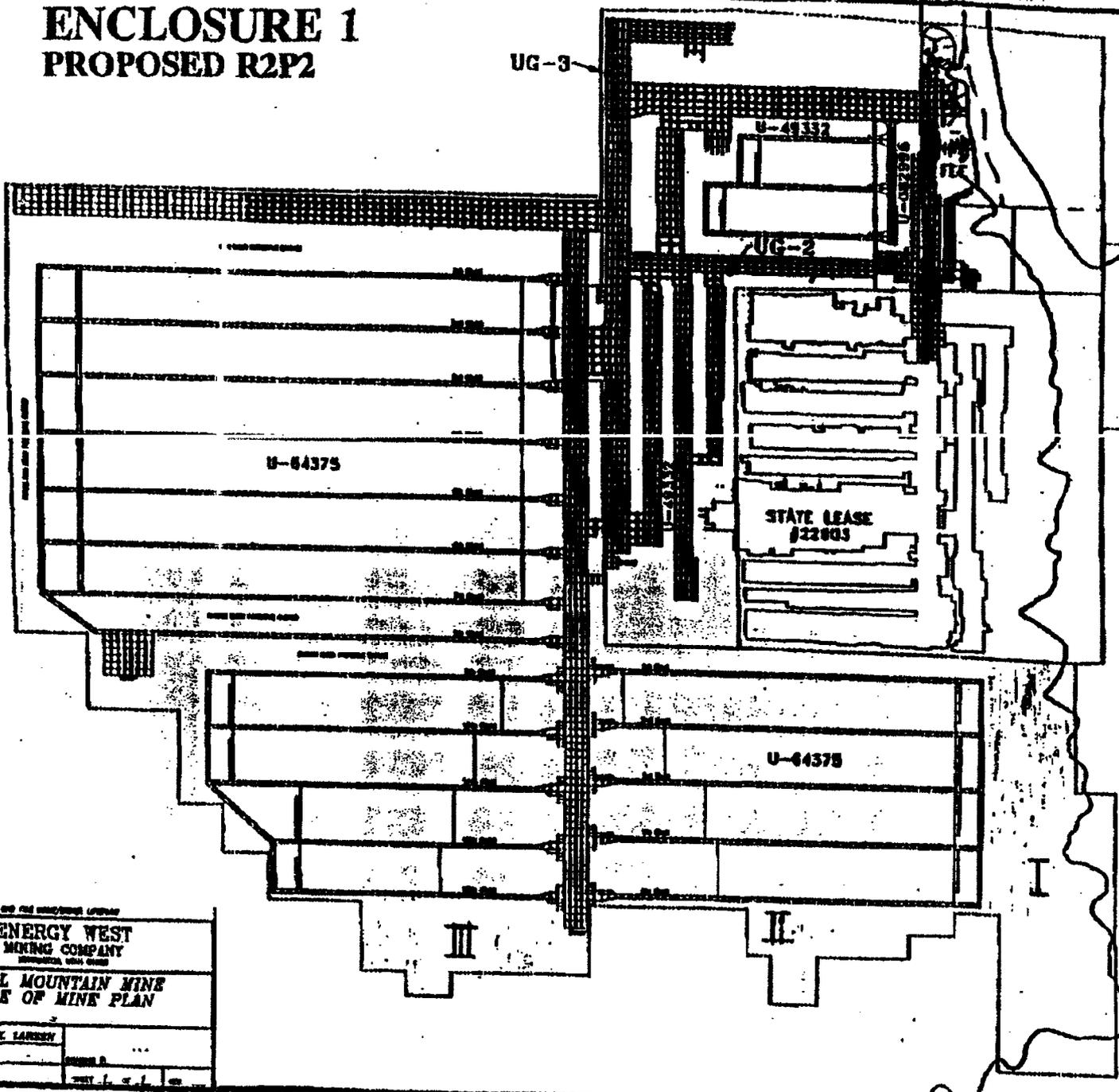
4. ADVERSE PARTIES Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (DC-100).

5. PROOF OF SERVICE Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a))

ENCLOSURE 1 PROPOSED R2P2



SCALE: 1" = 2000'

THE MINE OPERATING PLAN
**ENERGY WEST
MINING COMPANY**
 TRAIL MOUNTAIN MINE
 LIFE OF MINE PLAN
 DRAWN BY: K. LARSEN
 CHECKED BY: _____
 DATE: _____