



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-0005

October 10, 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: Consolidation Coal Company - "Emery Deep" Mine - Application for an
Amendment to the 4th East Portal Area to Abate NOV N03-39-1-1

Dear Sir or Madam:

This in response to the Utah Division of Oil, Gas, & Mining's (UT-DOG M) September 15, 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 an Amendment to the 4th East Portal Area to Abate NOV N03-39-1-1, has determined that it proposes to modify the surface facilities layout to include an air shaft, a 10,000 ton coal stockpile, a 2,600 ton surge pile, associated coal handling facilities, a 100 ton rock dust bin, water tank, storage yard, two retention ponds and a sediment pond on privately owned lands to facilitate mining and reclamation operations at the Emery Deep mine, Utah State permit C/015/015. Revised text and drawings to discuss the construction and operation of the facilities area, as well as updated ownership and control and compliance information has been provided as a part of the application.

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-DOG M from coordinating the review and approval of the Application for an

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DIV. OF OIL, GAS & MINING

Amendment to the 4th East Portal Area to Abate NOV N03-39-1-1 with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the September 16, 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 16, 2003, the U.S. Forest service stated it had no jurisdiction over or comments on the application.

In an electronic transmittal dated October 9, 2003 the Bureau of Land Management stated that, in their opinion, the Amendment to the 4th East Portal Area to Abate NOV N03-39-1-1 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,

A handwritten signature in cursive script, appearing to read "Ranvir Singh, acting for".

Ranvir Singh
Manager, Northwest Branch

cc: Denver Field Division