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Incoming
C/015/0015
#3020

From: "Carl Johnston" <CJohnston@osmre.gov>
To: <betsy_herrmann@fws.gov>, "Harber, Dale" <dharber@fs.fed.us>, "Hedberg, ...
Date: 9/4/2008 7:02 AM
Subject: Three Mining Plan Determinations - Emery Deep
Attachments: Emery.ds2.doc; Emery.pad.doc; Emery.cmw.doc

Attached are OSM's final decisions regarding the need for Mining Plan Modifications for the above subject. Signed copies 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.

From the desk of...

Carl R. Johnston

Natural Resource Specialist

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UT-0005

September 4, 2008

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 a Permit Revision, Coal Mine Waste Sale, Task No. 3020

Dear Sir or Madam:

This is in response to the Utah Division of Oil, Gas & Mining's (UT-DOGM) August 4, 2008, 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, Coal Mine Waste Sale, has determined that it proposed to modify the text of he approved Permit Application Package (PAP) to addresses the removal and reprocessing of coal mine waste from an existing coal mine waste disposal site at the Emery Deep mine, Utah State permit C/015/0015.

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, Coal Mine Waste Sale, with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the August 4, 2008, request to the Bureau of Land Management and the USDA Forest Service for their review and comment.

In an electronic submittal dated August 12, 2008, 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,

Foster E. Kirby
Acting Manager, Northwest Branch

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