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From: "Carl Johnston" <CJohnston@osmre.gov>
To: <betsy_herrmann@fws.gov>, "Harber, Dale" <dharber@fs.fed.us>, "Henry Aus...
Date: 12/23/2008 7:14 AM
Subject: Mining Plan Determination - Emery Deep
Attachments: Emery.ps8.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

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UT-0005

December 23, 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, Full Extraction Pillar Splitting Plan, Task No. 3086

Dear Sir or Madam:

This is in response to the Utah Division of Oil, Gas & Mining's (UT-DOGM) November 25, 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, Full Extraction Pillar Splitting Plan, has determined that it addresses deficiencies found by UT-DOGM during the review of the original permit revision to increase coal recovery by utilizing a full extraction pillar splitting plan for all of the remaining coal reserves to be recovered 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, Full Extraction Pillar Splitting Plan, with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the November 25, 2008, request to the Bureau of Land Management and the USDA Forest Service for their review and comment.

In an electronic submittal dated November 26, 2008, the USDA Forest Service stated had no comments or concerns with the permit revision application.

The Bureau of Land Management did not provide any comments.

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