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ACT/015/018-A

UTAH POWER & LIGHT COMPANY

Responded

3-8-83

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February 22, 1983

JIM

MAR 10 8 1983

State of Utah
 Division of Oil, Gas and Mining
 4241 State Office Building
 Salt Lake City, UT 84114

Attn: Ms. Mary M. Boucek

Re: Deer Creek Mine ACT/015/018A
 Emery County, Utah

Gentlemen:

Mr. Heward has given me your letter of January 12, 1983, and has asked me to respond to the section entitled "1. Overland Conveyor." Mr. Heward will respond to the remainder of your letter.

It is the position of Utah Power & Light Company that the overland conveyor from the coal crusher to the Huntington power plant is a transportation system and does not constitute a surface mining activity either under the Utah Coal Mining Reclamation Act or the Federal Surface Mining Control and Reclamation Act. Consequently, it does not come within the jurisdiction of the Division of Oil, Gas and Mining or the Office of Surface Mining. We believe that decisions involving the Federal Act and regulations issued thereunder have so held. This company, in fact, challenged the jurisdiction of the Office of Surface Mining over the conveyor belt at a point where it entered the Huntington plant. The Administrative Law Judge upheld the contention of the company and vacated a NOV issued by the Office of Surface Mining. (See, Utah Power & Light Company v. Office of Surface Mining, DVO-23-P, April 17, 1981.) While the alleged violation occurred at a point nearer the Huntington plant, there does not appear to be any basis in either the statute or the regulations to distinguish between that point and any other point along conveyor system.

If you can provide us with a citation to any provision of the Act or regulations or to a pertinent decision, we will be happy to review our position regarding the matter.

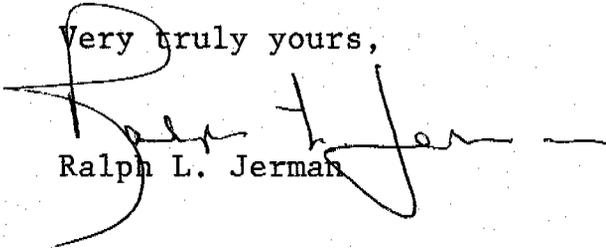
MARY M. BOUCEK
 FEB 28 1983
 DIVISION OF
 OIL, GAS AND MINING

State of Utah
Division of Oil, Gas and Mining
February 22, 1983
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You have apparently relied, in part, upon the fact that the overland conveyor system was described in our permit application. However, it was not, as you indicated, referred to as an integral part of the mining operation, but was included merely to comply with UMC 784.24 requiring a description of "each road, conveyor and rail system" in the proposed permit area. This would not be cause, we believe, to include the system within the permit area.

If you disagree with the above, I would appreciate it if you would get back to me and advise me of the basis for such disagreement.

Very truly yours,


Ralph L. Jerman

RLJ:p