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UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION
SALT LAKE CITY, UTAH

UTAH POWER & LIGHT COMPANY, (UP&L),	:	Coal Mining Permit UT-0001
	:	
Petitioner,	:	Wilberg Mine
	:	Emery County, Utah
v.	:	
	:	30 CFR Part 775
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT (OSMRE),	:	
	:	
Respondent,	:	
	:	
STATE OF UTAH, DIVISION OF OIL, GAS & MINING (UTAH),	:	
	:	
Intervenor.	:	
.....		
UTAH POWER & LIGHT COMPANY (UP&L),	:	Docket No. TU 6-1-PR
	:	
Applicant,	:	Application for Permit Review
	:	
v.	:	Coal Mining Permit UT-0016
	:	
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT (OSMRE),	:	Deer Creek Mine
	:	Emery County, Utah
	:	
Respondent.	:	

STIPULATION AND ORDER FOR DISMISSAL

I. STIPULATION

The STATE OF UTAH ("Utah"), the OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT ("OSMRE") and UTAH POWER & LIGHT COMPANY ("UP&L") by and through the undersigned counsel, stipulate and agree as follows:

1. Upon the execution of this Agreement and entry of the Order of Dismissal, Utah will promptly, within sixty days, modify the Wilberg/Cottonwood Mine Permit (UT-0001) to replace the existing language of Condition No. 2 with the following language:

In order to fulfill the requirement to restore the land affected by permittee's mining operations to a condition capable of supporting the current and postmining land uses which are stated in the permit (Wilberg/Cottonwood Mine Plan, Page 2-175 through 2-180, and pages 4-38), the permittee will replace water determined to have been lost or adversely affected as a result of permittee's mining operations if such loss or adverse impact occurs prior to final bond release. The water will be replaced from an alternate source in sufficient quantity and quality to maintain the current and postmining land uses which are stated in the permit (Wilberg/Cottonwood Mine Plan, Page 2-175 through 2-180, and pages 4-38).

During the course of regular monitoring activities required by the permit, or as the permittee otherwise acquires knowledge, the permittee will advise the Division of the loss or adverse occurrence discussed above, within ten working days of having determined that it has occurred. Within ten working days after the Division notifies permittee in writing, that it has determined that the water loss is the result of the permittee's mining operation, the permittee shall meet with the Division to determine if a plan for replacement is necessary and, if so, establish a schedule for submittal of a plan to replace the affected water. Upon acceptance of the plan by the Division, the plan shall be implemented. Permittee reserves the right to appeal the Division's water loss determination as well as the proposed plan and schedule for water replacement as provided by Utah Code Ann. § 40-10-22(3)(a).

2. Upon the execution of this Agreement and entry of the Order of Dismissal, Utah will promptly, within sixty days, modify the Deer Creek Mine Permit (UT-0016) to replace the existing language of Condition No. 6 to include the following language:

In order to fulfill the requirement to restore the land affected by permittee's mining operations to a condition capable of supporting the current and postmining land uses which are stated in the permit (Deer Creek Mine Plan, Pages 2-151 through 2-154, and pages 4-38 through 4-39), the permittee will replace water determined to have been lost or adversely affected as a result of permittee's mining operations if such loss or adverse impact occurs prior to final bond release. The water will be replaced from an alternate source in sufficient quantity and quality to maintain the current and postmining land uses which are stated in the permit (Deer Creek Mine Plan, Pages 2-151 to 2-154 through 4-38 to 4-39).

During the course of regular monitoring activities required by the permit, or as the permittee otherwise acquires knowledge, the permittee will advise the Division of the loss or adverse occurrence discussed above, within ten working days of having determined that it has occurred. Within ten working days after the Division notifies the permittee in writing that it has determined that the water loss is the result of the permittee's mining operation, the permittee shall meet with the Division to determine if a plan for replacement is necessary and, if so, to establish a schedule for submittal of a plan to replace the affected water. Upon acceptance of the plan by the Division, the plan shall be implemented. Permittee reserves the right to appeal the Division's water loss determination as well as the proposed plan and schedule for water replacement as provided by Utah Code Ann. § 40-10-22(3)(a).

3. Upon notification that Utah has completed the permit modification described in paragraphs 1 and 2 herein, OSMRE will begin the process of dissolving the federal permits issued to UP&L for the Wilberg Mine (UT-0001) and the Deer Creek Mine (UT-0016.)

4. All parties hereto agree to the dismissal of this action with prejudice and agree to bear their own costs, expenses and attorney's fees incurred in this action and request that this Tribunal accept the Stipulation of the parties set forth herein and enter an Order of Dismissal as set forth below.

DATED this ____ day of August, 1988.

STIPULATED AND AGREED TO BY:

STATE OF UTAH

BY _____
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U.S. DEPARTMENT OF THE INTERIOR

BY _____
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II. ORDER

WHEREAS, the parties hereto have agreed to the dismissal of this action under the terms set forth in the above-stated Stipulation; and

WHEREAS, the parties hereto, through their respective attorneys, have stipulated to the entry of this Order.

NOW, THEREFORE, by the consent of the parties hereto and this Tribunal being advised and having considered this matter:

IT IS HEREBY ORDERED:

1. That this Tribunal hereby adopts and approves the Stipulation between the parties set forth above;
2. That all claims in this action are hereby dismissed with prejudice; and
3. That the parties hereto are to each bear their own costs, expenses and attorney's fees incurred in this action.

DATED this ____ day of _____, 1988.

HARVEY C. SWEITZER
Administrative Law Judge

DAD:042088A