0003

Mine File

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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November 7, 1994

CERTIFIED RETURN RECEIPT REQUESTED
No. P 540 714 017

J. Craig Smith
Nielsen and Senior
Eagle Gate Plaza and Office Tower
Suite 1100
60 East South Temple
Salt Lake City, Utah 84111

Re: Determination of Completeness, Rilda Canyon Surface Facilities, Deer Creek Mine, ACT/015/018, Folder #3, Emery County, Utah

Dear Mr. Smith:

I am in receipt of your October 20, 1994 letter, which discusses off-site mitigation of the surface impacts of coal mining. The construction of roads and facilities pads in Rilda Canyon is before the Division as a permitting issue, and the timing of your letter falls within the public comment period of the Division's Rilda Canyon Determination of Administrative Completeness.

Your letter addresses the U. S. Forest Service (Manti-La Sal National Forest) requirement to fence 30 acres of Rilda Canyon along both sides of the stream in the bottom 1.25 miles of the canyon, as a condition to the construction of roads and facilities pads.

I characterize the Manti-La Sal National Forest's mitigation as off-site mitigation because this fenced acreage is not within the disturbed area or the permit area of the Deer Creek Mine, and, as such, is not an "affected area" as defined at R645-100-200. As the land managing agency for the 30-acre fenced area in question, Manti-La Sal National Forest is the agency that would be able to determine the appropriateness of your allegation that Special Coal Lease Stipulation #17 of the Land and Resource Management Plan has been violated.

Utah's Cooperative Agreement with the Departments of Interior and Agriculture contemplates the Division will coordinate inter-agency issues relating to coal permit applications. Accordingly, I have discussed the issue raised in your letter with

representatives of the Manti-La Sal National Forest, and have been advised that their grazing experts have determined that fencing will not significantly affect the grazing allotment. I did not discuss your concern that a violation of the Special Coal Lease Stipulation may have occurred. The telephone conversation with Manti-La Sal substantiated my position that the fencing of concern is off-site mitigation. My contacts with the Forest Service are not meant to deprive you of an opportunity to raise your client's concerns directly with Manti-La Sal, should you so desire.

Your request for an Informal Conference as a function of a completeness determination is appropriate and timely. On this basis, I am scheduling an Informal Conference in the Division's Salt Lake office at 2:00 p.m., on November 21, 1994. By offering to hold the conference, I am not at this time making a finding that the off-site mitigation area is an affected area as defined in the Utah Coal Regulatory Program.

Very truly yours,

James W. Carter
Director

vb
cc: Carter Reed, Manti-La Sal, USFS
L. Braxton
P. Grubaugh-Littig
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