0020

File

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

February 13, 1996

Eugene Johansen, Chairman
Emery Water Conservancy District
P. O. Box 998
Castle Dale, Utah 84513

Dear Mr. Johansen:

I am writing in response to your letter of January 26, 1996. In order to more fully respond to your concerns, I am providing you a description of the means by which the Utah coal program provides protection for all water sources and hydrologic resources and am including some information which may be useful to you.

The coal permitting process is designed to ensure that all wildlife, livestock, agricultural, domestic, residential and culinary water sources are protected and that the overall hydrologic balance is protected from material damage as a result of coal mining activities. Coal mining in Utah is governed by Title 40, Chapter 10 of the Utah Code and Administrative Rules promulgated R645-100 through R645-402. I am enclosing here a copy of rule R645-301-700 which governs permitting and performance standards related to hydrology. You will note, at page 85, that R645-301-750 provides:

> All coal mining and reclamation operations will be conducted to minimize disturbance to the hydrologic balance within the permit area and adjacent areas, to prevent material damage to the hydrologic balance outside the permit area and support approved post-mining land uses in accordance with the terms and conditions of the approved permit . . .
> (emphasis added)

The Division of Oil, Gas and Mining interprets this provision to require that impacts to all water sources must be minimized within the permit area and that material damage to those sources outside the permit area must be prevented.

To that end, all coal operators must submit to the Division an analysis of probable hydrologic consequences (PHC) of the proposed mining activities. The

Division then must then prepare an independent Cumulative Hydrologic Impact Assessment (CHIA) which represents the Division's own conclusions about the cumulative hydrologic impact of the proposed mine and other mines on the overall hydrologic balance of the area. The PHC and CHIA are based upon observation and collection of both surface and groundwater data from a variety of sources. Before a permit may be issued, the operator must have conducted at least a full year's worth of background monitoring of both surface and groundwater sources. Before a permit is issued, the Division must find that the operator's plan will, in fact, minimize disturbance to the hydrologic balance within the permit area and will prevent material damage to the hydrologic balance outside the permit area.

After permit issuance, monitoring is required to be continued during mining operations. Utah mines in the Wasatch plateau are required to monitor hundreds of surface and groundwater sources to detect changes in water quantity or quality which might occur. If information from any of the monitoring sources, or from other sources, suggests that the Division's findings are in doubt, the Division must require the operator to amend its plan to restore the permit's protections to hydrologic balance. The Division will issue cessation orders if an imminent risk of harm to the environment exists.

All of the Division's determinations in these matters are based upon scientifically valid observations and interpretations of data from the monitoring sources, as well as any other sources of information which are identifiable and measurable. The Division's objective is to ensure that impacts to the hydrologic balance are prevented or mitigated in accordance with the regulatory program.

These protections, which are built into the permit issuance and management processes, are distinct from the remedy created by the federal Energy Policy Act requiring replacement of domestic, residential and culinary sources adversely affected by coal mining activities. To say that non-culinary water sources are not protected is incorrect. It is true that the specific replacement remedy is unique to culinary sources, but protection of the hydrologic balance is a major provision of the Utah coal program.

The Division is always interested in receiving information related to hydrologic impacts from interested parties and water users. If such information, when verified, demonstrates that conditions or impacts other than those predicted by the PHC and CHIA have occurred, the Division will take appropriate remedial steps, and enforcement action if necessary, to mitigate the hydrologic impact within the permit area and prevent hydrologic damage outside the permit area. I would be happy to

meet with you or any interested residents of Emery County at your convenience to discuss the coal program or specific concerns. Please feel free to contact either me or Lowell Braxton at 538-5340.

Very truly yours,

James W. Carter
Director

vb
Enclosure
cc: D. Lauriski
M. Page
Emery County Commission
Huntington Cleveland Irrigation Co.
B. Johnson
M. Dimitrich
T. Matthews
K. Johnson
C. J. Jankeiwicz
H:petersen.l