

North Platte Facilities Area  
Environmental Assessment  
March 23, 2004

4/015/0018  
Beer Creek  
NEPA

<u>NAME</u>	<u>ORGANIZATION</u>
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Alice Carlton	USFS
Aaron Howe	USFS
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IN REPLY REFER TO:

# United States Department of the Interior

OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
P.O. Box 46667  
Denver, Colorado 80201-6667

March 10, 2004

Mary Ann Wright, Associate Director, Mining  
Utah Division of Oil, Gas, and Mining  
Coal Regulatory Regulatory Program  
1594 West North Temple, Suite 1210  
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Manti-La Sal National Forest  
599 West Price River Road  
Price, Utah 84501

Kent Hoffman, Deputy State Director  
Bureau of Land Management, State Office  
324 South State Street  
P.O. Box 45155  
Salt Lake City, Utah 84145-0155

RE: PacifiCorp "Deer Creek" Mine – Application for Permit Revision, North Rilda Facilities Area

Ladies and Gentleman:

Thank you very much for your prompt reply to my letter of January 28, 2004 requesting your input as to whether the North Rilda Canyon Facilities permit revision meets the requirements of 30 CFR 746.18(d) and therefore constitutes a mining plan modification. After careful review of the pertinent documents and your input, we have determined that the facilities revision does meet the criteria of 30 CFR 746.18(d) and will require a modification to the existing approved mining plan. The reason is that the documentation in the August 1997 mining plan decision document for the two leases where the facilities would be constructed contains a sentence that states "No additional surface disturbance except that related to mining-induced subsidence will result from this action." Therefore this proposal will change the information before the Assistant Secretary.

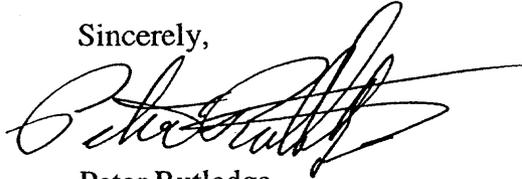
Since OSM, by regulation, must prepare the mining plan decision document and is responsible for determining the scope, content and format of the required NEPA document, OSM will be the lead agency for the preparation of an environmental assessment (EA). Pursuant to the Utah

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Cooperative Agreement at 30 CFR 944.30 VI C3 and 30 CFR 740.4(c)(7) the Utah Division of Oil, Gas And Mining will prepare the documentation with OSM assistance where appropriate.

We invite and encourage the Forrest Service and the Bureau of Land Management to be cooperating agencies in the preparation of the EA. We currently have scheduled a meeting to develop the scope, content and format of the EA and a plan for its completion at the Division of Oil, Gas and Mining's offices on March 23, 2004 and hope the Forrest Service and Bureau of Land Management will be able to attend.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Rutledge", written in a cursive style.

Peter Rutledge  
Chief Program Support Division

cc: Chuck Samborski  
Barry Burkhardt



State of Utah

Department of  
Natural Resources

Division of  
Oil, Gas & Mining

ROBERT L. MORGAN  
*Executive Director*

LOWELL P. BRAXTON  
*Division Director*

OLENE S. WALKER  
*Governor*

GAYLE F. McKEACHNIE  
*Lieutenant Governor*

February 10, 2004

Pete Rutledge, Chief of Program Support  
Office of Surface Mining  
1999 Broadway, Suite 3320  
P.O. Box 46667  
Denver, Colorado 80201-6667

04-02-13-02

Re: Rilda Canyon Facilities (Mining Plan Modification Determination),  
PacifiCorp, Deer Creek Mine, C/015/0018, Outgoing Files

Dear Mr. Rutledge:

This letter is in response to your request for reopening, and formally requesting consultation on, the proposed Rilda Canyon surface facilities for the Deer Creek Mine. This division does not view this proposed facility as warranting Department of Interior Under-Secretary approval as a Mining Plan Modification (MPM). The following discussion outlines our analysis of this conclusion.

The Deer Creek Mine has been in operation since 1969. The original mining plan was approved under the Federal lands program on October 11, 1985. The mine plan approval was supported by an environmental assessment (EA) which did not identify significant impacts. The existing Deer Creek permit constitutes more than 24,000 acres, of which about 17,000 acres are federal surface lands. About 96 acres are affected by surface disturbance to date. These disturbances are bonded by a \$3 million surety bond by Travelers Casualty and Surety Company of America. It is also insured for public liability as required under Utah rules, for \$20 million per occurrence and in the aggregate, where applicable by AEGIS, Ltd. Between 1990 and the present, Deer Creek has expanded into further state and federal lease areas via MPM changes, significant revisions, and Incidental Boundary Changes (IBC) as listed below:

- Pacificorp expanded into the Rilda Canyon Leases (federal leases U-7653, U-06039, U-47977, and SI-050862) in 1994 supported by an EA and FONSI, dated September 27, 1994. In 1995, PacifiCorp expanded its surface facilities into the Rilda area by adding a 2.3-acre fan portal facility with the supporting documentation from the September 27, 1994 EA and FONSI.
- In 1997 Utah DOGM approved the addition of 1,520 acres for coal removal in the North Rilda leases (federal leases U-024317, U-06039, U-2180, and SL-051221). Interior approved the addition as a MPM. This decision was supported by an EA and finding of no significant impact.

Page 2  
Pete Rutledge  
February 10, 2004

- In 2003, this division approved the addition of a state lease (Mill Fork), adding 5562.82 acres to this underground mine. This proposed Rilda Canyon facilities addition is for 10.2 acres of surface disturbance of which 4.9 acres are on land pre-disturbed by four pre-SMCRA mines that were reclaimed by the Utah AML program in 1988. NEPA review was conducted on the reclamation work that was completed. Utah reviewed this proposal with the permittee this past fall and concluded that the addition of a 10-acre surface facility was not a significant permit revision and was also contained wholly within federal coal lease lands. However, this proposal does require public notice since it occurs within 100 feet of a public road.

Utah does not believe the proposed revision meets any of the criteria listed under 30 CFR 746.18(d). Mine Plan Modifications specifically deal with leased federal coal. This proposal is to develop surface facilities to access state coal. These surface facilities will be permitted under the SMCRA process, which analyzes for all environmental issues. Therefore, this proposal should not be considered as an MPM.

However, in the event that, for adequate reason, OSM determines that the revision does constitute a Mine Plan Modification, Utah certainly urges compliance with 30 CFR 740.4(c)(7). This portion of the Code of Federal regulations requires OSM to be responsible for:

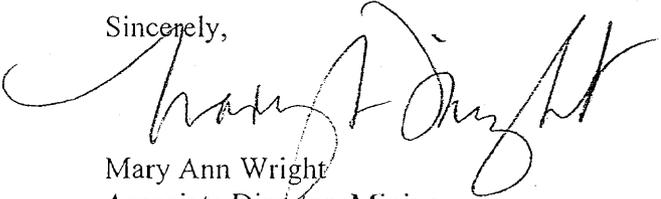
- (i) determining the scope, content and format and ensuring the objectivity of NEPA compliance documents,
- (ii) making the determination of whether or not the preparation of an EIS is required, and
- (iii) all other NEPA requirements.

Utah does not believe these NEPA responsibilities can be delegated.

Also, if OSM determines that NEPA must be undertaken, Utah can provide the services of qualified staff to assist with the preparation of documentation to comply with NEPA as provided in 30 CFR 740.4(c)(7).

Please contact me if you require further information or clarification and coordination. Thank you for the opportunity to formally comment on this issue.

Sincerely,



Mary Ann Wright  
Associate Director, Mining

cc: Manti-LaSal  
BLM  
PFO

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United States  
Department of  
Agriculture

Forest  
Service

Manti-La Sal  
National Forest

Supervisor's Office  
599 West Price River Drive  
Price, UT 84501  
Phone # (435) 637-2817  
Fax # (435) 637-4940

File Code: 2820-4

Date: February 11, 2004

Peter Rutledge  
Chief Program Support Division, Western Regional  
Coordinating Center  
Office of Surface Mining  
P.O. Box 46667  
Denver, CO 80201-6667

04-02-17-03

Dear Mr. Rutledge:

This letter is in response to your January 28, 2004 letter requesting additional comments regarding the proposed Mine Permit Change for PacifiCorp's North Rilda Canyon portal facilities.

We have reviewed environmental documents previously completed and find that the proposal is not within the scope of prior NEPA documentation or agency decisions, nor is it authorized by the approved Mine Plan or permit. We believe the proposal will involve "significant surface disturbance" as defined in the Mineral Leasing Act of 1920 as amended by the Federal Coal Leasing Amendments Act of 1975 (Section 6), as it will extend completely across the canyon bottom and require piping 1,200 feet of perennial stream. For clarification, the entire 10.2-acre proposed project area is viewed as new disturbance because the 'previously disturbed and reclaimed' area referenced in your letter was associated with pre-SMCRA activities that were successfully restored to resource production over a decade ago.

We completed a preliminary assessment of the proposal relative to the CEQ significance criteria at 40 CFR 1508.27 and believe that there is potential for significant effects (see attached). An environmental analysis should be prepared jointly by OSM and the FS in accordance with agency regulations, Forest Plan direction, and lease stipulations (U-2810, SL-051221 & U-06039). Additionally, the Forest has a connected action associated with Emery County's desire for a public road easement along the rerouted roadway.

We believe that the proposal should be designated as a Mine Plan Modification because of potential for significant effects, and because the action would be beyond the scope of prior mine plan approval/consent pursuant to the Minerals Leasing Act. An environmental analysis should be conducted to explore alternatives and mitigations, and disclose effects to the public. Preparation of an Environmental Assessment or Environmental Impact Statement should commence as soon as possible to avoid delays.



Peter Rutledge

Page 2

If you have any questions, contact Aaron Howe or Carter Reed at the Forest Supervisor's Office in Price, Utah.

Sincerely,

  
ALICE B. CARLTON  
Forest Supervisor

Enclosure

cc:

Regional Forester, Intermountain Region

Sally Wisely, Utah State Director, Bureau of Land Management

Mary Ann Wright, DOGM

D-2/3

**PRELIMINARY SIGNIFICANCE EVALUATION**  
**PROPOSED RILDA CANYON PORTAL FACILITIES**  
Manti-La Sal National Forest, 02/09/04

**Significant Effects (CEQ Regulations)**

The criteria used to determine significance as defined under NEPA are contained in 40 CFR 1508.27. "Significantly" as used in NEPA requires consideration of both context and intensity.

Context: Significance of an action must be analyzed in several contexts such as society as a whole, the affected region, the affected interests, and the locality. In case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short and long-term effects are relevant.

- For the Rilda Canyon project, the physical effects context would be generally defined as the Huntington Canyon drainage and watershed, including Rilda Creek and other tributaries. Effects to elk and deer herds would be much broader considering the affected herds and range of habitation and use. The affected human environment would involve a larger area consisting of at least the Castle Valley Area communities (recreation, livestock grazing, water use).
- The duration of effects would be 20 to more than 50 years considering both the length of time of facilities will be used plus time needed for reclamation to restore the understory and overstory vegetation, and the aquatic ecosystem to pre-mining conditions.

Intensity: This refers to the severity of impact considering ecologically critical areas, the extent to which the effects could be highly controversial, and whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance cannot be avoided by terming an action temporary or by breaking it down into small components.

- **Controversy** - Among the involved agencies there would most likely be general consensus regarding the magnitude and duration of effects, however affected interests are likely to strongly disagree.
- **Cumulative Effects** - There is little doubt that the analysis must consider the effects of the many actions and uses in the Huntington Canyon area to be defined as the affected environment. The proposed project is likely to cause significant effects to some resources by complete removal of a substantial amount of the aquatic ecosystem in the canyon and habitat for terrestrial wildlife. Cumulative effects to wildlife, water quality, recreation, and wildlife grazing are currently occurring due to the high-intensity human activities occurring in the area. They consist of coalbed methane field development, other mine portal facilities (Deer

Creek and Crandall Canyon), the Huntington Power Plant, subsidence of escarpments, breakout in the South Fork of Rilda Canyon, the mixing of coal, oil and gas, and recreation traffic along the Huntington Canyon Scenic Byway (State Route 31), recreation use, and livestock grazing.

- **Reduced flow in Huntington Creek potentially due to Subsidence at Skyline Mine** -Of specific concern regarding cumulative effects to fish habitat and macroinvertebrates in Huntington Creek is that minimum discharge to Huntington Creek from Electric Lake has been reduced from 12 CFS to 6 CFS to preserve water stored to meet power plant needs. This has affected fish and macroinvertebrate productivity. Only preliminary monitoring results are currently available.
- **Big-Game Winter Range (Forest Management Indicator Species)** -The proposed developments, combined with other activities in the Canyon and adjacent areas, would cumulatively interfere with big-game (elk) wintering and migration.



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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P.O. Box 45155  
Salt Lake City, UT 84145-0155  
<http://www.blm.gov>



IN REPLY REFER TO:  
3480  
(UT-923)

FEB 11 2004

Peter Rutledge, Chief Support Division  
Western Regional Coordinating Center  
Office of Surface Mining (OSM)  
P.O. Box 46667  
Denver, CO 80201-6667

04-02-17-04

RE: Federal Mining Plan approval Recommendation response for [PacifiCorp "Deer Creek" Mine – Application for Permit Revision, North Rilda Facilities Area].

Dear Mr. Rutledge:

In your letter of January 28, 2004, you requested that we provide a formal response on the Bureau of Land Management's (BLM) recommendation whether the North Rilda Facilities permit revision meets the requirements of 30 CFR 746.18(d) and would be considered to be a mining plan modification that would require approval by the Assistant Secretary, Lands and Minerals. We have reviewed the plan and prior approvals for the Deer Creek Mine permit and have compiled our review in the enclosed internal memorandum which discusses each of the criteria in detail

In your earlier determination, OSM indicated that the proposal would be considered to be a mining plan modification because the action would require the preparation of an environmental impact statement (EIS) as provided in 30 CFR 746.18(2)(d)(5). BLM does not agree with this determination. We have carefully reviewed the proposal and existing environmental guidance and can find nothing to support requiring an EIS. However, the federal coal leases where the proposed facilities would be constructed include the following stipulation:

*"The limited area available for mine facilities at the coal outcrop, steep topography, adverse winter weather, and physical limitations on the size and design of the access road are factors which will determine the ultimate size of the surface are utilized for the mine. A site specific environmental analysis will be prepared for each new mine site development and for major modifications to existing developments to examine alternatives and mitigate conflicts (emphasis added)".*

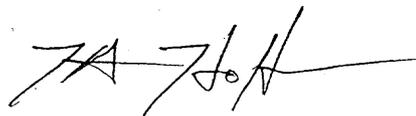
To be consistent with the terms of the federal coal lease issued under the Mineral Leasing Act (MLA), the approval of a permit revision for new surface facilities would appear to require some

level of environmental analysis. BLM believes that under the provisions of the Utah Cooperative agreement outlined in 30 CFR 944.30, DOGM can be responsible for and prepare an environmental analysis even when the permit revision is determined not to constitute a mining plan modification as provided in 30 CFR 944.3 Article VI paragraph D.3. Such an environmental analysis could meet the lease requirement that an analysis be prepared for new mine site development. Otherwise, the proposal could require a mining plan modification because the terms of the federal lease, which must be met to be in compliance with the MLA, require an environmental analysis prior to approving the proposed permit revision. Other than the possible exception discussed above, none of the criteria for mine plan modification found in 30 CFR 746.18(2)(d) is met for the proposal.

If OSM determines that the proposed surface facilities must be treated as a mining plan modification OSM is responsible for compliance with the National Environmental Policy Act (NEPA) for the federal action to be taken by the Assistant Secretary. The memorandum of understanding between OSM and the Forest Service concerning mining plan approvals on Forest Service System Lands provides that OSM will "act as the lead agency responsible for assuring compliance with NEPA and request cooperation from the Forest Service as appropriate". Preparation of the NEPA document can be delegated to the State Regulatory Authority, but the regulations at 30 CFR 740.4(c)(7) indicate that OSM continues to be responsible for determining the scope, content and format of the NEPA compliance documents and making a determination whether and EIS is required. BLM strongly urges OSM to consider an environmental assessment (EA) rather than an EIS to fulfill the requirements of the lease. As discussed in the attached memorandum, BLM believes that the appropriate level of environmental analysis would be an EA which could be prepared by DOGM under their cooperative agreement procedures without requiring the Assistant Secretary to approve a mining plan modification. Much of the area where the surface facilities are proposed has been disturbed by previous mining activity and the Forest Plan has designated the area to be managed as a leasable minerals area where the emphasis is on making the land surface available for surface facilities. Because of these two facts, BLM believes that an EA is likely to support a finding on no significant impact which would eliminate the need for an EIS. Further, the extended time frame associated with the preparation of an EIS could compromise the orderly and timely development of the mine.

In summary, BLM does not believe that the proposed permit revision constitutes a mining plan modification. However, the lease requires that any mine site develop will require an environmental analysis to examine alternatives and mitigate conflicts. It is our position that this analysis can be conducted without requiring a mining plan modification. If you have any questions concerning our recommendation or the attached memorandum that summarizes our analysis of the regulatory requirements for a mining plan modification determination, please contact James Kohler of my Branch of Solid Minerals at (801) 539-4037.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Hoffman', with a long horizontal line extending to the right.

Kent Hoffman  
Deputy State Director, Lands and Minerals



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155  
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IN REPLY REFER TO:  
3480  
(UT-923)

FEB 11 2004

### Memorandum

To: Deputy State Director, Lands and Minerals

From: Chief, Branch of Solid Minerals *James E. [Signature]*

Subject: Federal Mining Plan approval Recommendation for the PacifiCorp Deer Creek Mine – Application for Permit Revision, North Rilda Facilities Area

BLM has been requested to apply the criteria from 30 CFR 746.18(2)(d) to the proposed permit modification to the Pacificorp Deer Creek Mine Permit and provide our recommendation whether the permit revision constitutes a mining plan modification. Stan Perkes developed an evaluation of these criteria as follows:

**Criterion 1: Any change in the mining plan which would affect the conditions of its approval pursuant to Federal law or regulation other than the act.**

*BLM Response:* The federal coal leases affected by the proposed revision contains a lease stipulation that provides:

*“The limited area available for mine facilities at the coal outcrop, steep topography, adverse winter weather, and physical limitations on the size and design of the access road are factors which will determine the ultimate size of the surface are utilized for the mine. A site specific environmental analysis will be prepared for each new mine site development and for major modifications to existing developments to examine alternatives and mitigate conflicts (emphasis added)”.*

This lease stipulation requires that a site specific environmental analysis needs to be conducted for a new mine site development such as the North Rilda surface facility. The stipulation was included with the lease from the Manti-LaSal Forest Plan as part of their consent under the Mineral Leasing Act as amended. It would seem that in order for the construction of the proposed surface facilities to be in accordance with the lease terms, an environmental analysis needs to be prepared for a new mine site development to evaluate alternatives and develop requirements for mitigation.

BLM believes that this analysis could be conducted by the Utah Division of Oil, Gas, and Mining (DOGGM) as part of their review of the permit package as provided in 30 CFR 944.30 Article VI paragraph D.3. which provides:

*Permit revisions, amendments, or renewals on Federal lands which are determined by OSMRE not to constitute mining plan modifications under paragraph D.1. of this Article or that meet the criteria for not being mining plan modifications as established under paragraph D.2. of this Article will be reviewed and approved following the procedures outlined in paragraphs B.1. through B.5. of this Article.*

Paragraph B.1. provides :

*DOGGM will assume the responsibilities for review of permit applications where there is no leased Federal coal to the extent authorized in 30 CFR 740.4(c) (1), (2), (4), (6) and (7).*

30 CFR 740.4(c)(7) provides that the State Regulatory Authority (DOGGM) can be delegated:

*Preparation of documentation to comply with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

If an environmental analysis is appropriate for actions that do not constitute a mining plan modification, then it appears that an environmental analysis by DOGM could meet the requirements of the lease stipulation, the permit revision could be processed by DOGM without being considered a mine plan modification, and the action would be consistent with the requirements of the lease. If, however, a determination is made by OSM that there is no requirement for an environmental analysis for a permit revision unless it is determined to be a mining plan modification, then it appears that in order for the permit revision for the construction of the North Rilda surface facilities to be consistent with the terms of the lease, the proposal would have to be considered to be a mine plan modification. The Mineral Leasing Act requires that operations conducted on a federal coal lease be in accordance with the terms and conditions of the lease. Therefore, criterion 1 could possibly be met and the permit revision could be considered to constitute a mining plan modification.

**Criterion 2: Any change which would adversely affect the level of protection afforded any land, facility or place designated unsuitable for mining.**

BLM Response: The area proposed for the North Rilda surface facilities and the surrounding leased lands have not been designated as unsuitable for mining so this criterion does not apply.

**Criterion 3: any change in the location or amount of coal to be mined, except where such change is the result of**

- (1) A minor change in the amount of coal actually available for mining from the amount estimated or
- (2) An incidental boundary change

BLM Response: The proposal to construct the North Rilda surface facilities does not result in any appreciable change to the amount or location of coal that would be mined. Therefore this criterion is not met.

**Criterion 4: Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time.**

BLM Response: Surface coal mining and reclamation operations and a mining plan modification have already been approved on the coal leases where the surface facilities are proposed. Therefore this criterion does not apply. On July 29, 1994 Mining Plan approval was granted for lease U-06039 to "conduct underground coal mining activities and related surface activities. . . . On August 12, 1997 Mining Plan approval was granted to PacifiCorp to conduct coal development and mining operations as described in the complete permit application package on Federal coal leases U-2810, and SL-051221. This extended coal mining operations on these Federal coal lands for the first time. The 1994 approval authorized construction of a mine breakout that included approximately 4.3 acres of surface disturbance and placed 280 feet of stream/drainages into culverts. In addition, 3500 feet of the old road was realigned and 1350 feet of new road was (4850 feet total) constructed under this approval.

**Criterion 5: Any change which requires the preparation of an Environmental Impact Statement (EIS) under the National Environmental Policy Act or 1969, 42 U.S. C. 4321 *et seq.***

BLM Response: BLM has reviewed its own guidance for Major Actions Normally Requiring an Environmental Impact Statement as defined in the Departmental Manual. These actions include Resource Management Plans; Wild and Scenic River designations; Regional Coal leasing; Coal Preference Right leases; approval for major facilities such as power plants petroleum refineries, and synfuel plants; rights of way for major reservoirs, canals, or pipelines; approval of operations that would result in liberation of radioactive materials; and approval of any mining operation where the area to be mined, including any area of disturbance is greater than 640 acres. The 10 acres of disturbance anticipated in this proposal clearly does not rise to the level of potential environmental impacts discussed above. BLM believes that the proper level of environmental analysis for the proposed North Rilda surface facilities would be an environmental assessment. The nature of the proposed disturbance and reclamation requirements provided in SMCRA would likely result in a finding of no significant impact (FONSI), and no Environmental Impact Statement should be required. The leasing action for the 4,680 tract (Mill Fork) that will be mined through these facilities was analyzed through an EA (Mill Fork Federal Coal Lease Tract UTU-71307, Environmental Assessment, Lease-By-Application No. 11, June 1997) and a Finding of No Significant Impact (FONSI) was signed by the FS and BLM in September 1997. BLM does not believe that the addition of an additional 10 acres of disturbance by this project (5 acres of which has been previously disturbed) and the removal of 1200 feet of riparian vegetation which will be reclaimed when mining is complete meets the threshold to require an EIS.

In BLM's opinion, the 516 DM 6, Appendix 8 criteria for determining that an EIS is required are not met and the proposed action does not require preparation of an EIS.

**Criterion 6: Any change in the mining operations and reclamation plan that would result in a change in the post mining land use where the surface is federally owned.**

BLM Response: The surface of the area in question is owned by the Federal Government and is contained in the following Federal coal leases U-06039, SL-051221 and U-2810. The current Mining Plan states that the post mining land use will be wildlife and range. BLM does not believe the construction and eventual reclamation of these surface facilities will affect the long term post mining land use. Further, the coal lease grants the right to "construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease-rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted". This is also recognized by the Forest Service Manual that provides, "A mineral lease grants a dominant right to use the surface of the leased land for the production of the specified mineral, subject to existing rights. Under a lease, structures and other improvements necessary for operations may be constructed, such as roads, pipelines, and electric power lines, subject to all terms, conditions and stipulations of the lease. No special-use permit is required for such necessary improvements within lands under license, permit, or lease (FSM 2822.31e)".

With the possible exception of criterion 1, none of the criteria enumerated in 30 CFR 746.18(2)(d) appear to be met. A term of the federal leases where the proposed surface facilities are to be constructed requires an environmental analysis for each new mine site development. In order to meet this term, an environmental analysis will have to be prepared as provided in 30 CFR 944.30 Article VI paragraph D.3., if the permit revision is not a mining plan modification. If the permit revision is determined to be a mining plan modification, then the environmental analysis will be prepared to support the approval by the Assistant Secretary.

01-28-2004 OSM Western Regional Coordinating Center

Mary Ann Wright, Associate Director, Mining  
Utah Division of Oil, Gas, and Mining  
Coal Regulatory Regulatory Program  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

Alice Carlton, Forest Supervisor  
Manti-La Sal National Forest  
599 West Price River Road  
Price, Utah 84501

Kent Hoffman, Deputy State Director  
Bureau of Land Management, State Office  
324 South State Street  
P.O. Box 45155  
Salt Lake City, Utah 84145-0155

RE: PacifiCorp "Deer Creek" Mine – Application for Permit Revision, North Rilda  
Facilities Area

Ladies and Gentleman:

On November 24, 2003, following informal consultation with your agencies, and based on a summary description of the proposed project, this office provided a letter to the Utah Division of Oil, Gas, and Mining stating that the proposal meets the requirements of 30 CFR 746.18 (d). Therefore the proposed North Rilda Facilities Area does constitute a mining plan action requiring Secretarial approval.

Subsequent to that letter, on December 18, 2003, this office received the three inch thick Volume 11 Permit Revision Application for the North Rilda Canyon Portal Facilities. Careful review of the proposal detail revealed that the proponent, PacifiCorp, proposes to construct a man and materials facility and a fan facility on the north side of Rilda Canyon. Coal handling facilities are not proposed. The foot print of the facilities would occupy about 10.2 acres, of which about 4.9 acres have been previously disturbed and reclaimed. About 1200 feet of Rilda Creek would be diverted through a culvert. The proposal also includes the driving of a 2100 foot long rock slope to intersect the Hiawatha seam.

In view of this additional review, we believe that consultation with the three agencies should be reopened on a more formal basis as to whether the North Rilda Canyon

Facilities permit revision meets the requirements of 30 CFR 746.18(d) and therefore constitutes a mining plan modification.

In the interest of a prompt decision by OSM, I would appreciate your written response by February 11, 2004. Please address your response to Peter Rutledge, Chief Program Support Division, Western Regional Coordinating Center, Office of Surface Mining, P.O. Box 46667, Denver, Colorado 80201-6667.

Sincerely,

/s/ Peter Rutledge

Peter Rutledge  
Chief Program Support Division