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To: <maryannwright@utah.gov>, Dale Harber <dharber@fs.fed.us>
Date: 12/1/2005 6:21:54 PM
Subject: Consent Letter, Rilda Canyon Mine Plan Modification

Attached is the FS consent letter for the Rilda Canyon Mine Plan Modification, PacifiCorp Deer Creek Mine. Same text as reviewed and ok'd by Mary Ann Wright. A paper copy will follow in the mail.

(See attached file: rilda_consent_letter.doc)

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**United States
Department of
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**Forest
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File Code: 2820-4

Date: December 1, 2005

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

Subject: New Surface Facilities in Rilda Canyon, PacifiCorp, Deer Creek Mine, C/015/0018,
Task ID #2266, Outgoing File

Dear Ms. Wright:

By this letter, the Forest Service consents to the Mining and Reclamation Plan for new surface facilities in Rilda Canyon for PacifiCorp's Deer Creek Mine as required by 30 U.S.C. § 207(c). My decision to consent to the modification, dated August 25, 2005, was upheld by the Regional Forester on administrative appeal on November 28, 2005. In accordance with regulations at 36 CFR § 215.9(b), my decision may be implemented on December 20, 2005. Forest Service consent to the Mining and Reclamation Plan will be effective on that date.

The mine plan revision application includes conditions for operations that are consistent with the Manti – La Sal National Forest Land and Resource Management Plan, and with lease stipulations consented to by the Forest Service. The proposed post-mining land uses of the location for the proposed surface facilities in Rilda Canyon are the same as the pre-mining land uses, and therefore are consistent with the Forest Plan. Forest Service consent is conditioned upon inclusion of terms in the mine plan that requires compliance with the Forest Plan standard for macroinvertebrates.¹ Since the current macroinvertebrate inventory of Rilda Creek is

¹ 30 CFR 740.4 Responsibilities (c) "The following responsibilities of OSM may be delegated to a state regulatory authority under a cooperative agreement: ... (2) Consultation with and obtaining the consent, as necessary, or the Federal land management agency with respect to post-mining land use and to special requirements necessary to protect non-coal resources of the areas affected by surface coal mining and reclamation operations:".

30 CFR 740.4 Responsibilities, (e) - "The Federal land management agency is responsible for: (1) Determining post-mining land uses; (2) Protection of non-mineral resources; (3) Requiring such conditions as may be appropriate to regulate surface coal mining and reclamation operations under provisions of law applicable to such lands under its jurisdiction; and (4) Where land containing leased Federal coal is under the surface jurisdiction of a Federal agency other than the Department, concur in the terms of the mine plan approval".

30 CFR 740.11(d) "Nothing in this subchapter shall affect in any way the authority of the Secretary or any Federal land management agency to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations under



measured at a Biotic Condition Index (BCI) of 69, conforming to the Forest Plan standard for BCI would mean that any mining related activities that caused the BCI to be reduced below 69 would require corrective action by the operator.

Also in accordance with our surface management agency responsibilities² to help protect non-coal resources, we desire that the Rilda Creek Riparian Habitat Restoration Project that is documented in the Permit Application Package/Mining and Reclamation Plan, Table 300-5 Rilda Canyon Wildlife Mitigation of the May 2005 "R645-301-300 Biology" document be retained and enforced under the permit.

Sincerely,

/s/ alice b. carlton

ALICE B. CARLTON
Forest Supervisor

cc: Regional Forester
Pete Rutledge, OSM
Kent Hoffman, BLM

provisions of law other than the Act on land under their jurisdiction".

30 CFR 740.13(d)(3) "The regulatory authority shall consult with the Federal land management agency to determine whether any permit revision will adversely affect Federal resources other than coal and whether the revision is consistent with that agency's land use plans for other Federal laws, regulations and executive orders for which it is responsible."

² 30 CFR 740.4 Responsibilities, (e) - "The Federal land management agency is responsible for: (1) Determining post-mining land uses; (2) Protection of non-mineral resources; (3) Requiring such conditions as may be appropriate to regulate surface coal mining and reclamation operations under provisions of law applicable to such lands under its jurisdiction; and (4) Where land containing leased Federal coal is under the surface jurisdiction of a Federal agency other than the Department, concur in the terms of the mine plan approval".