OGMCOAL DNR <ogmcoal@utah.gov>

Deer Creek Permit Amendment Denial

Karl Houskeeper <karlhouskeeper@utah.gov> Thu, Apr 14, 2016 at 10:52 AM
To: mmaus@umwa.org, OGMCOAL DNR <OGMCOAL@utah.gov>, Daron Haddock <DARONHADDOCK@utah.gov>, Steve Christensen <stevechristensen@utah.gov>, Dana Dean <DANADEAN@utah.gov>

Matt Maus
UMWA

Please find attached a copy of the Division letter denying the permit amendment request for mine closure and water retention structures. The information is being provided to you per you phone request today. This letter is public information and can also be obtained from our web site.

Thanks,
Karl

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Karl R. Houskeeper
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State of Utah

DEPARTMENT OF NATURAL RESOURCES

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Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

April 12, 2016

Ken Fleck, Geology and Environmental Affairs Manager
Energy West Mining Company
P.O. Box 310
Huntington, Utah 84528

Subject: Denial of Permit Amendment Volume 12, Chapter 7, Deer Creek Mine, PacifiCorp, C/015/0018, Task ID #5060

Dear Mr. Fleck:

After spending considerable time reviewing RMP proposed mine closure and particularly the water retention design, the Division, in a routine phone call with Mr. Russel Riley of MSHA on April 11, 2016 was told that his letter of December 1, 2015 had been interpreted incorrectly by you and also by the Division. He emphatically stated that the letter was intended as an unequivocal denial of the plan. He stated that under no circumstances could MSHA approve a water-retaining structure as part of mine closure plan. He asserted that the letter was referring to MSHA's lack of legal authority to approve a plan that requires water retention, not its jurisdictional authority to approve the closure plan. He affirmed that MSHA does have jurisdiction to review and approve mine closure plans and did not waive that jurisdiction for the RMP plan.

Mr. Riley said that a legal representative of PacifiCorp, a Mr. Ed Green had met in person with MSHA leadership, including Ms. Patricia Silvey, Deputy Assistant Director of Operations and had been told in no uncertain terms that this type of closure would never be approved by MSHA. As you were advised prior to the Division being advised that the December 1, 2015 was intended as a withdrawal of MSHA's review authority, the Division will defer to MSHA's determinations on the mine closure due to their regulatory authority and their expertise. Since MSHA has said that these water retaining structures cannot be built under any circumstances, we are denying task #5060. We will not be releasing our deficiencies at this time because they no longer apply.

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UTAH DNR OIL, GAS & MINING

If you have any questions please contact me at 801.538.5320, or Daron Haddock at 801.538.5325.

Sincerely,

Dana Dean, P.E.
Associate Director – Mining

DD/pb