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Orig -> Wilberg File  
cc -> Jim S.  
Dianne

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ACT/05/09  
#2

April 2, 1984

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APR 5 1984

DIVISION OF  
OIL, GAS & MINING

Mr. Allen D. Klein  
Office of Surface Mining  
1020 15th Street  
Denver, CO 80202

Re: Wilberg Mine Permit Application

Dear Mr. Klein:

At the informal conference held in Salt Lake City, Utah, on March 29, 1984, Mr. Crawford's attorney presented a petition for designation of his property as an area unsuitable for surface effects of underground coal mining activities. It was indicated at the informal conference by representatives of OSM that this filing could substantially delay the issuance of the Wilberg permit.

As you are aware, it is critical to the mining plans of Utah Power that it be allowed to enter the South Wilberg lease without further wait. The company has already been delayed several months past the period when it was originally anticipated that the permit could be issued. Any further delays could have adverse economic impacts on it. Accordingly, we would appreciate it if you would advise us immediately as to what effect the filing of the unsuitability petition may have upon the issuance of the Wilberg permit.

As I have informed Mr. Albrech of your office, we feel that the petition should be summarily rejected in view of the fact that both the Wilberg and Deer Creek mines have been in operation since the early 1970s. They were first operated by Peabody Coal Company and then by Utah Power, which by 1977 had expended many millions of dollars on them. For these reasons, we believe it is clear that the areas involved cannot be declared unsuitable for surface effects of underground coal mining activities. Both the federal and state statutes

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provide that the provisions for declaring an area unsuitable shall not apply to lands on which coal mining operations were being conducted prior to August 3, 1977, or where substantial legal and financial commitments in such operation were in existence prior to January 4, 1977. Both of these criteria, among others, would preclude consideration of the petition filed by Mr. Crawford.

I would appreciate it if you would review the matter and get back to me as soon as possible.

Very truly yours,

Ralph L. Jerman

RLJ:p

cc: Division of Oil, Gas and Mining  
Herm Olsen, Esq.