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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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October 27, 1994

Blake Webster
PacifiCorp
One Utah Center
201 South Main, Suite 2000
Salt Lake City, Utah 84180-0021

Re: Hunter Power Plant Coal Preparation Activities, ACT/015/019, Folder #2, Emery County, Utah

Dear Mr. Webster:

The following is in response to your submittal of September 14, 1994, in response to the Division's August 29, 1994 request for information. The submittal establishes that the coal preparation facilities located at the Hunter Power Plant (Hunter Preparation) are operated in connection with the power plant, and not in connection with a specific coal mine.

Your September 14th submittal (p. 3 & 4) establishes that, at this time, feed for Hunter Preparation is dominantly from the Cottonwood Mine and subordinately from the Deer Creek Mine, and that, depending on fuel needs at the Hunter Power Plant, other mines may provide fuel to the Hunter Power Plant either directly or through Hunter Preparation. The closest mine, the Cottonwood Mine, is 12 miles distant from Hunter Preparation.

The submittal (p. 4) also states that there is no operational manner by which coal processed at Hunter Preparation could be diverted away from the Hunter Power Plant stockpile. On the basis of your submittal and my field visit of July 19, 1994, I conclude that all coal processed at Hunter Preparation is consumed at the Hunter Power Plant.

Utah regulation R. 645-302-260 establishes the reach of the Utah Coal Regulatory Program to coal preparation activities located outside the permit

boundaries of a specific mine. R. 645-302-260 "applies to any person who operates or intends to operate a coal processing plant outside the permit boundary of any coal mining and reclamation operation, other than such plants which are located at the site of ultimate coal use" (emphasis added).

By rulemaking published in the Federal Register, Vol. 53, No. 225, 11-22-88, OSM amended the federal rule governing permitting of off-site coal preparation activities to delete the reference to such activities "at the site of ultimate coal use." With regard to the change, the FR comments as follows (at p. 47388):

> "Another commentor was concerned about the effect of the rule on a specific preparation plant that operates in connection with an end user, a power plant burning coal from a mine about a mile away. Such plants were not subject to regulation under OSMRE's previous rules at 30 CFR Parts 785 and 827 because those rules explicitly excluded from jurisdiction "such plants which are located at the site of ultimate coal use."
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> The FR continues:
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> "As stated above, OSMRE has not changed its interpretation that operations in connection with an end user are not operations in connection with a coal mine. Coal preparation facilities such as the power plant of concern to this commentor do not operate in connection with a coal mine and are not subject to this rule" (emphasis added).

OSM's affirmation that "operations in connection with an end user are not operations in connection with a coal mine" establishes that coal preparation activities taking place at the site of end use are "in connection with" the end use, and therefore should not be regulated. Utah's language at R. 645-302-260 mirrors this intent by excluding from regulation off-site preparation activities located at the site of ultimate coal use.

Given the facts disclosed by your submittal and my site visit, and given that Hunter Preparation is located at the site of ultimate or end coal use, I reaffirm the Division's finding of January 7, 1991 that Hunter Preparation operates in connection with the Hunter Power Plant, and that permitting of Hunter Preparation under the Utah Coal Regulatory program is therefore not required.

Thank you for your submittal of September 14th, and your patience in this matter.

Very truly yours,

James W. Carter
Director

vb/jbe
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