

0023



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

BCC: MAW  
DRH

Michael O. Leavitt  
Governor  
Kathleen Clarke  
Executive Director  
Lowell P. Braxton  
Division Director

1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801  
801-538-5340  
801-359-3940 (Fax)  
801-538-7223 (TDD)

May 5, 1999

Alan Rabinoff, Group Leader  
Bureau of Land Management  
324 South State Street  
Salt Lake City, Utah 84145-0155

Re: Legal Opinion Requested, PacifiCorp, Cottonwood/Wilberg Mine, ACT/015/019, Folder #2, Emery County, Utah

Dear Mr. Rabinoff:

On April 30, 1999, Blake Webster and Scott Childs from Interwest Mining Company, Chuck Semborski from Energy West Mining Company, and John Kirkham, legal counsel for PacifiCorp met with Lowell Braxton, Daron Haddock, and Pamela Grubaugh-Littig from the Division to discuss bonding issues related to the Cottonwood/Wilberg Mine. This bonding issue related to requiring a bond for the entire permit area at this mine.

Mr. Scott Childs told the group that it would be impossible to have his officers sign a bond for the entire permit area because PacifiCorp does not have legal right of entry for the entire permit area. He brought a map (East Mountain Property, Federal Coal Lease Acreage Relinquishment, Drawing #GENS1779D, dated April 29, 1999) and showed areas where lease relinquishment had been approved on December 14, 1995 at Cottonwood/Wilberg Mine and where an application was made for other areas in 1992 but had not been approved for lease relinquishment to date. He said that in these areas that have not been approved in the 1992 application, there is no right of entry and therefore, cannot be bonded.

During the discussion, Mr. Kirkham recited the BLM rules, specifically Title 43, Chapter II, Part 3450, Section 3452.1-1:

“The lessee may surrender the entire lease, a legal subdivision thereof, an aliquot part thereof (not less than 10 acres) or any bed of the coal deposit therein.”

and at Section 3452.1-3:

“The effective date of the lease relinquishment shall, upon approval by an authorized

Legal Opinion Requested  
ACT/015/019  
May 5, 1999  
Page 2

officer, be the date on which the lessee filed the lease relinquishment. No relinquishment shall be approved until the authorized officer determines that the relinquishment will not impair the public interest, that the accrued rental and royalties have been paid and that all the obligations of the lessee under the regulations and terms of the lease have been met.”

Mr. Kirkham said that PacifiCorp maintains that when an application for lease relinquishment is made to the BLM, the applicant no longer has right of entry. Therefore, for all of the areas that PacifiCorp has applied for lease relinquishment, there is no longer right of entry.

This is a request for BLM clarification on the above-noted BLM rules on the alleged PacifiCorp determination that “at the time of the lease relinquishment application, the applicant surrenders the legal right of entry.”

Your response to this request is gratefully appreciated. If you have any questions, please call me. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Pamela Grubaugh-Littig". The signature is fluid and cursive, with a large initial "P" and "G".

Pamela Grubaugh-Littig  
Permit Supervisor