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

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June 10, 1999

Ken May, General Manager
Canyon Fuel Company, LLC
SUFCO Mine
397 South 800 West
Salina, Utah 84654

Re: 960- Acre Pines Incidental Boundary Change Application, SUFCO Mine, Canyon Fuel Company, LLC, ACT/041/002, Folder #2, Sevier County, Utah

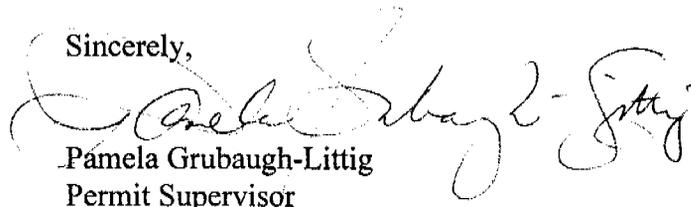
Dear Mr. May:

The Division received your application for a 960-acre incidental boundary change (IBC) into Federal Lease UTU-76195 on June 8, 1999. I consulted with Ranvir Singh, OSM-WRCC on June 10, 1999 about the requirement for mining plan approval for this application. He stated that the requirements of 30 CFR, Part 746.18 (d)(4) are applicable, i.e. "any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time" (see attached) and therefore, mining plan approval is required.

It is my understanding from your application that this is the initial mining into the leased federal coal of Federal Coal Lease UTU-76195, which Canyon Fuel Company, LLC acquired on May 20, 1999 and thus the requirement for the mining plan approval. The process involved with receiving mining plan approval for the 960 acres makes the deadline of August 30, 1999 unrealistic at this point.

If you have any questions, I would be happy to discuss this issue with you.

Sincerely,



Pamela Grubaugh-Littig
Permit Supervisor

cc: Ranvir Singh, OSM-WRCC
PFO

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d Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0026. The information is being collected to determine compliance with section 523 of the Act (30 U.S.C. 1273) and this part. The obligation to respond to the information collection requirements of this part is mandatory.

46.11 General requirements.

- a) No person shall conduct surface coal mining and reclamation operations on lands containing leased Federal coal until the Secretary has approved the mining plan.
- b) Surface coal mining and reclamation operations on lands containing leased Federal coal shall be conducted in accordance with a permit issued in accordance with this subchapter, any special terms and conditions, and the approved mining plan.

46.13 Decision document and recommendation on mining plan.

OSM shall prepare and submit to the Secretary a decision document recommending approval, disapproval or conditional approval of the mining plan to the Secretary. The recommendation shall be based, at a minimum, upon:

- a) The permit application package, including the resource recovery and protection plan;
- b) Information prepared in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*;
- c) Documentation assuring compliance with the applicable requirements of other Federal laws, regulations and executive orders other than the Act;
- d) Comments and recommendations in concurrence of other Federal agencies, as applicable, and the public;
- e) The findings and recommendations of the Bureau of Land Management with respect to the resource recovery and protection plan and other requirements of the lease and the Mineral Leasing Act;
- f) The findings and recommendations of the regulatory authority with respect to the permit application and State program; and
- g) The findings and recommendations of OSM with respect to the additional requirements of this subchapter.

§ 746.14 Approval, disapproval or conditional approval, of mining plan.

The Secretary shall approve, disapprove or conditionally approve the mining plan in accordance with this part.

§ 746.17 Term of approval.

(a) Each mining plan approval shall cover the operations for which a complete permit application package was submitted, unless otherwise indicated in the approval.

(b) An approved mining plan shall remain in effect until modified, cancelled or withdrawn and shall be binding on any person conducting mining under the approved mining plan.

§ 746.18 Mining plan modification.

(a) Mining plan modifications shall be approved by the Secretary.

(b) The approval of mining plan modifications shall be in accordance with the procedures of this part for mining plan approval.

(c) Surface coal mining and reclamation operations on lands containing leased Federal coal pursuant to a permit revision issued by the regulatory authority shall not commence until—

- (1) OSM determines that the permit revision does not constitute a mining plan modification under this section, or
- (2) If the permit revision constitutes a mining plan modification under this section, such modification has been approved by the Secretary.

(d) Permit revisions constitute mining plan modifications if they meet any of the following criteria:

- (1) Any change in the mining plan which would affect the conditions of its approval pursuant to Federal law or regulation other than the Act;
- (2) Any change which would adversely affect the level of protection afforded any land, facility or place designated unsuitable for mining;
- (3) Any change in the location or amount of coal to be mined, except where such change is the result of:
 - (i) A minor change in the amount of coal actually available for mining from the amount estimated; or
 - (ii) An incidental boundary change;

(4) Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time;

(5) Any change which requires the preparation of an environmental impact statement under the National En-

vironmental Policy Act or 1969, 42 U.S.C. 4321 *et seq.*;

(6) Any change in the mining operations and reclamation plan that would result in a change in the postmining land use where the surface is federally-owned.