

MEMORANDUM OF UNDERSTANDING
BETWEEN
UTAH DIVISION OF OIL, GAS AND MINING
AND
UTAH DIVISION OF WATER RIGHTS
FOR
COAL MINING OPERATIONS

Utah Department of Natural Resources, Division of Oil, Gas and Mining ("DOGM") and Division of Water Rights ("DWRi") hereby revise the Memorandum of Understanding dated January 21, 1980, effective this 18th day of Nov. 2005.

ARTICLE I - PURPOSE

This Memorandum of Understanding provides an operating agreement by which DOGM and DWRi shall execute their respective responsibilities concerning regulation of the environmental impacts of surface and underground coal mining operations in the State of Utah to: avoid duplicative efforts; work in close coordination; and respond to mutual issues in a timely manner.

This is an agreement with the sole intent of coordinating permitting, compliance and enforcement activities, and cannot be relied upon to create any rights, substantive or procedural, enforceable by any party in any administrative proceeding or litigation with the state, nor does it relieve any entity from their obligation in acquiring necessary permits or approvals from the agencies party to this agreement.

ARTICLE II - POLICY

DOGM is the designated regulatory authority for the State of Utah responsible for implementation and enforcement of a statewide program for the regulation of coal mining and reclamation operations under Utah Coal Mining and Reclamation Act, Utah Code Ann. §§ 40-10-1 et seq., (2005) and regulations at R645-1 et seq., Utah Administrative Code (2005). DWRi is the designated regulatory authority for the State of Utah responsible for the appropriation and distribution of water (surface and underground), dam safety, stream alteration, well drilling, and other water right activities under Utah Code Ann. §§ 73-1 to -6 (2005) and regulations at Utah Administrative Code R655-1 et seq. (2005).

It is the mutual desire of DOGM and DWRi to work in harmony for the common purpose of assisting the public and carrying out the statutory mandates of DOGM and DWRi.

ARTICLE III - ADMINISTRATION

A. Permit Reviews

1. Upon submission of an administratively complete application for a permit or a change to an approved coal mining and reclamation plan to DOGM, DOGM will notify DWRi.
2. If DWRi requires additional information, DWRi will contact DOGM for such information.
3. DWRi will review state appropriated water rights within the permit area.
4. DWRi will assist DOGM in identifying potential impacts to state appropriated water from the proposed coal mining activities.

B. Inspections/Citizen Complaints

1. DOGM shall perform the requisite compliance inspections at each mine site. DOGM and DWRi will work cooperatively to share inspection information, as necessary. If there are safety issues involving a dam or pond encountered during a DOGM compliance inspection, DOGM will notify DWRi. Conversely, if DWRi notes any issues during a dam safety inspection, DWRi will notify DOGM.
2. Other than Claims of Impact to Water Rights, Section C (below), citizen complaints relative to stream alterations, well drilling and dams will be directed to DWRi.

C. Claims of Impact to Water Rights

1. When a party claims coal mining and reclamation operations have impacted their water rights, DOGM may advise the permittee and request the permittee to provide a prompt reply to the claim. DOGM will then investigate the claim and may submit a written request to DWRi for a

written determination from DWRi of the potentially affected parties and the nature and status of the water rights. If DOGM determines that the coal mining or reclamation operations have interrupted, diminished or contaminated a state appropriated water right, DOGM will notify DWRi and will advise DWRi of the permittees' proposed actions to replace any impacted state-appropriated water rights.

2. When DOGM requests assistance from DWRi with claims of impact, DOGM will clearly state, in writing, the timeline for response according to the coal rules. DWRi will use its best efforts to provide a written response within the time requested.

D. Water Rights Applications

1. When DWRi receives water rights applications involving mining operations, DWRi will notify DOGM and will consult with them to ensure applicable DOGM regulations are followed and appropriate environmental protection methods are incorporated.
2. DWRi will notify DOGM of citizens' claims of impacts to a water right by a coal mining and reclamation operation.

E. Stream Alterations

1. When a mine application involves activities in or near a natural stream regulated by DWRi as per Utah Code Ann. § 73-3-29 (2005) and Utah Admin. Code R655-13 (2005), pertaining to Stream Alterations, DOGM will notify DWRi and consult with them to ensure that appropriate approvals are obtained and that the regulations in those sections are followed.
2. When DWRi receives a stream alteration application that involves mining operations, DWRi will notify DOGM and will consult with them to ensure applicable DOGM regulations are followed and appropriate environmental protection methods are incorporated.

F. Well Drilling

1. When a mine application involves well drilling activities that are regulated by DWRi which may include water monitoring wells, mine dewatering, and production wells as per Utah Code Ann. § 73-3-1 et seq. (2005) and Utah Admin. Code R655-4 (2005), pertaining to Water Well Drilling, DOGM will notify DWRi and consult with them to ensure that appropriate approvals are obtained and that the regulations in those sections are followed.
2. When DWRi receives a well drilling application that involves mining operations such as water monitoring wells, mine dewatering or coal exploration, DWRi will notify DOGM and will consult with them to ensure applicable DOGM regulations are followed and appropriate environmental protection methods are incorporated.

G. Safety of Dams

1. When a mine application involves dams or impoundments that are regulated by DWRi as per Utah Code Ann. §§ 73-2-22 and 73-5a-1 et seq. (2005), and Utah Admin. Code R655-10, R655-11, and R655-12 (2005), pertaining to Dam Safety, DOGM will notify DWRi and consult with them to ensure that appropriate approvals are obtained and that the regulations in those sections are followed.
2. When DWRi receives a dam application or plans for a dam or impoundment involving mining operations, DWRi will notify DOGM and will consult with them to ensure applicable DOGM regulations are followed and appropriate environmental protection methods are incorporated.

ARTICLE IV – EXISTING AUTHORITY

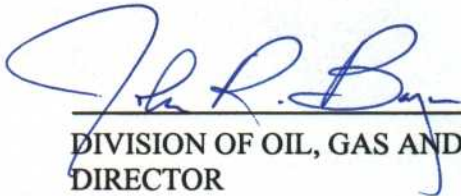
Nothing in this Memorandum of Understanding, nor in the above-mentioned laws and regulations concerning coal mining and reclamation (Utah Code Ann. §§ 40-10-1 et seq. (2005)), shall interfere with DWRi's administration of Utah Code Ann. §§ 73-1-1 to -6. Nothing in this Memorandum of Understanding, nor in the above-mentioned laws and regulations concerning

water rights (Utah Code Ann. §§ 73-1-1 et seq. (2005)), shall interfere with DOGM's administration of Utah Code Ann. §§ 40-10-1 et seq. (2005).

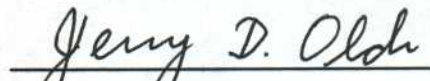
ARTICLE IV - TERMINATION

This Memorandum of Understanding shall become effective when signed by the designated representatives of the parties. The memorandum shall remain in force until terminated by mutual agreement or by either party upon thirty (30) days written notice to the other party. Amendments to this agreement may be proposed by either party and shall be adopted upon written agreement by all parties.

This Memorandum of Understanding is approved this 18th day of Nov., by the following:



DIVISION OF OIL, GAS AND MINING
DIRECTOR



DIVISION OF WATER RIGHTS
DIRECTOR