

Blackhawk Coal Company
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orig - mine file
cc: DR Nielson
LP Braxton
D HADLOCK



DIVISION OF
OIL, GAS & MINING

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dr. Dianne Nielson
Director
Utah Division of Oil, Gas & Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180

June 13, 1990

RE: Willow Creek Site Permit

Dear Dr. Nielson:

Attached is one (1) fully executed original of the permanent program permit for the Willow Creek Site. Blackhawk Coal Company (Blackhawk) has retained one (1) executed original.

I have signed this document reluctantly. I felt compelled to sign as Blackhawk is anxious to fulfill its obligations for site reclamation under the coal mining and reclamation permanent program. Blackhawk is committed to developing the site for industrial postmining land use.

I was hesitant to sign the document, because of concern over five (5) stipulations. Blackhawk does not accept these stipulations and does not wish to lose any rights to appeal these stipulations. Lowell Braxton assured us on June 11, 1990, that signing the permit would not preclude further administrative appeal or Board appeal of the permit's stipulations. The stipulations in question are:

- o Stipulation UMC 817.111-.117-(1)-(LK)
- o Stipulation UMC 817.133-(1)-(LK)
- o Stipulation UMC 817.133-(2)-(LK)
- o Stipulation UMC 817.133-(3)-(LK)

Blackhawk responded to the proposed stipulations in a letter dated May 21, 1990 to Utah Division of Oil, Gas & Mining (UDOGM).

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In that letter we outlined our objections to four (4) stipulations. We have received no interim communication from UDOGM, but find the proposed stipulations have been incorporated in our permit.

In addition, we object to stipulation UMC 817.48-(1,2)-(HS). This stipulation did not appear in the list of draft stipulations reviewed by Blackhawk.

Some of these stipulations carry a thirty (30) day time limit. Blackhawk has received no explanation from the UDOGM staff and since we feel we have legitimate concerns about these stipulations and their effect on our ability to implement postmining land use, we hereby request an immediate meeting to discuss these issues. If such a meeting is not possible, we request an extension of these stipulations until this question is resolved.

BLACKHAWK IS PROCEEDING BASED ON THE DISCUSSION ABOVE. IF OUR REASONING IS INCORRECT, PLEASE NOTIFY W. C. BOSWORTH OF MY STAFF IMMEDIATELY AND THIS LETTER SHALL SERVE AS A REQUEST FOR ADMINISTRATIVE REVIEW UNDER PART UMC 787.11.

Very truly yours,



J. E. Katlic
President and Chief Operating Officer

APPROVED
LEGAL-FSD



cc: J. Belviso
W. Bosworth
C. Nowicki
C. Parrish

(Attachment A)

STIPULATIONS

Blackhawk Coal Company
Willow Creek Site
ACT/007/002
Carbon County, Utah

May 25, 1990

Stipulation UMC 800-(1) - JRH

1. Within thirty(30) days from permit approval, the operator shall submit to the Division, a complete copy of the Reclamation Agreement as required by the Division, with bond in the amount of \$10,000.00.

Stipulation UMC 817.111-.117-(1) - LK

1. Within 30 days of permit approval, Blackhawk will revise appropriate sections of the MRP to correctly identify the permit term, the 10-year liability period, and the applicable success standard.

Stipulation UMC 817.133-(1) - LK

1. Within 30 days of permit approval, Blackhawk will revise the land use section of the MRP to include a commitment to notify the Division of any amendments, renewals, or cancellation of the lease(s) upon which the alternative land use based prior to the effective date of any such amendment, renewal or cancellation.

Stipulation UMC 817.133-(2) - LK:

1. Within 30 days of permit approval, Blackhawk will revise the land use section of the MRP to include a commitment that should Blackhawk fail to implement the alternative postmining land use within 2 years (as per UMC 817.116(b)(3)(ii), or that the alternative land use does not continue through the 10-year liability period, Blackhawk will reclaim all disturbed areas to the premining use of wildlife habitat and grazing.

Stipulation UMC 817.133-(3) - LK:

1. Within 30 days of permit approval, Blackhawk will revise all land use references within the MRP to correctly identify the alternative postmining land use of storage facilities and eliminate references to the site as industrial.

STIPULATIONS (CONTINUED)

Stipulation UMC 817.24-(1) - (HS)

1. Within 30 days of permit approval, the operator must commit to (for inclusion in the PAP) deep ripping the areas covered by "coally material" prior to topsoil cover material redistribution.

Stipulation UMC 817.48-(1, 2) - (HS)

1. Prior to the redistribution of topsoil cover material upon "coally material", the operator must conduct adequate analyses (i.e., Division Guidelines for Management of Topsoil and Overburden, Table 6) to determine the acid- and/or toxic-forming potential for the "coally material". If analyses indicate an acid- and/or toxic-forming potential for the material in question, then the operator must adequately dispose of said material.
2. Laboratory analyses of the sediment pond embankment material (topsoil cover material for "coally material") indicates elevated Selenium concentration (>.10 ppm) when compared to the Division Guidelines for Management of Topsoil and Overburden, Table 2. Consequently, the operator must commit to reanalyzing (i.e., hot-water soluble selenium) topsoil cover material upon redistribution. In the event that Selenium concentrations remain elevated, the operator must comply with applicable regulations for the protection of surface and ground water.