



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

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April 2, 1997

TO: File

THROUGH: Joe Helfrich, Permit Supervisor *Jeh*

FROM: Paul Baker, Reclamation Biologist *PBB*

Re: Castle Gate/Willow Creek Separation, Amax Coal Company, Castle Gate Mine, ACT/007/004-96G and -96L, Folder #2, Carbon County, Utah

SUMMARY

On November 22, 1996, the Division received a proposal from Amax Coal Company to separate the permits for the Castle Gate and Willow Creek Mines. They overlap in the Castle Gate Preparation Plant, Gravel Canyon, and Crandall Canyon areas.

It appears there have been few changes to most of the mining and reclamation plan, but there are a few areas where the plan now needs to be changed. A page has been added to each chapter which includes the following statement:

Where feasible, references to the areas transferred to the Willow Creek Permit have been removed from the text in the following sections/chapters. In some instances, removal of text referring to the areas transferred to the Willow Creek Permit was not possible. These references should be disregarded when reviewing this permit.

This review also considers changes to Chapter 2 of the mining and reclamation plan. Chapter 2 contains ownership and control information and was submitted as a separate amendment in May 1996.

ADMINISTRATIVE FINDINGS

IDENTIFICATION OF INTERESTS

Regulatory Reference: R645-301-112

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Analysis:

The Castle Gate Mine is owned by Amax Coal Company. Amax Coal Company's parent companies are, in ascending order, Cyprus Amax Coal Company, Amax Energy, Inc., and Cyprus Amax Minerals Company. The resident agent is C. T. Corporation System, and Amax Coal Company will be responsible for paying the abandoned mine reclamation fee. Appendix 2-3 has a company organization chart and contains lists of officers and directors of the companies that own or control the Castle Gate Mine.

Appendix 2-4 contains the names, permit numbers, MSHA numbers with dates of issuance, and the regulatory authorities for coal mining and reclamation operations of affiliated companies. This appendix also contains the lists of officers and directors contained in Appendix 2-3. The lists of officers and directors could be deleted from Appendix 2-4.

Cyprus Western Coal Company owns the areas to be affected by surface operations, and Blackhawk Coal Company, the Bureau of Land Management, and the State of Utah own coal rights. The application is required to show the names and addresses of owners of surface and mineral lands within the permit area. While the text does not explicitly give this information for the surface owners, Exhibit 4-1 shows surface ownership and Section 2.1-2(5) has addresses for these entities. Section 2.1-2(5) shows the names and addresses of the owners of surface and mineral property contiguous to the permit area. Land ownership information is also shown on Exhibits 4-1 and 4-2.

Exhibit 3-22 shows affected surface areas and utilities; however, the application is required to show each holder of record of any leasehold interest in the property to be mined, and any purchaser of record under a real estate contract for the property to be mined. The information in Exhibit 3-22 does not necessarily include what is required by R645-301-112.500. If there are any leasehold interests in the permit area, they need to be identified; if not, the application should contain a statement to that effect.

The application says there are no outstanding interests in lands, options or pending bids made by the applicant for lands contiguous to the permit area.

Findings:

Information provided in the proposal is not considered adequate to meet the requirements of this section. Prior to final approval, the applicant must provide the following in accordance with:

R645-301-112.500: The application needs to include the name and address of each

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holder of record of any leasehold interest in the property to be mined, and any purchaser of record under a real estate contract for the property to be mined.

VIOLATION INFORMATION

Regulatory Reference: R645-301-113

Analysis:

The application says neither the applicant nor any of its affiliates, subsidiaries or persons controlled by or under common control with the applicant has had a federal or state mining permit suspended or revoked in the last five years nor forfeited a mining bond or similar security deposited in lieu of bond.

Violation notices issued within the last three years to the Castle Gate Mine and to other Amax operations are shown in Appendix 3-7. There are no known unabated cessation orders or air or water quality violation notices.

Findings:

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

RIGHT OF ENTRY

Regulatory Reference: R645-301-114

Analysis:

Section 2.1-4 contains right of entry information. Amax Coal Company leased or subleased surface entry and coal extraction rights from Blackhawk Coal Company on January 31, 1986. Surface rights have now been transferred to Cyprus Western Coal Company, an affiliate of the permittee. Appendix 2-1 has copies of the coal leases. Coal in the permit area is in federal or State leases or is fee coal owned by Blackhawk Coal Company.

The Division understands through conversations and a meeting with the permittee's representative that Amax has relinquished its right to enter the federal coal leases with the right of first refusal. This needs to be discussed in the application.

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Findings:

Information provided in the proposal is not considered adequate to meet the requirements of this section. Prior to final approval, the applicant must provide the following in accordance with:

R645-3001-114: The Division understands through conversations and a meeting with the permittee's representative that Amax has relinquished its right to enter the federal coal leases with the right of first refusal. This needs to be discussed in the application.

INSURANCE, NOTARIZED SIGNATURE

Regulatory References: R645-301-117; R645-301-123

Analysis:

The application includes a copy of the most recent insurance policy in Appendix 2-5. The form complies with Division requirements.

The application was accompanied by a form with the notarized signature of Johnny Pappas with the statement that the information in the application is true and correct to the best of his information and belief.

Findings:

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

RECLAMATION PLAN

REVEGETATION PLAN

Analysis:

Chapter 9 contains vegetation information and the revegetation plan. The baseline vegetation information is in a consultant's report and includes all areas formerly in the Castle Gate permit area, including the Castle Gate Preparation Plant, Crandall Canyon, and the Willow Creek areas. While much of this information is no longer applicable to the Castle

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Gate Mine, it should be retained as part of the report.

Much of Chapter 9 simply quotes the regulations. This is unneeded and could be eliminated, but this is not considered a deficiency.

Species list two has been eliminated from the revegetation plan. This mix was designed for Crandall Canyon which has been included in the Willow Creek permit area.

The application indicates species list three will be used for revegetating wildlife areas and that list five will be used for riparian areas. These lists are identical, and list three should be eliminated. There is no indication where the "wildlife areas" are. The entire area is used by wildlife, and much of it contains critical big game winter range for elk. However, species list one, which has been used in Sowbelly Gulch and Hardscrabble Canyon, was also designed for wildlife and should be adequate for all upland disturbed areas of the new permit area.

Findings:

Information provided in the proposed amendment is not considered adequate to meet the requirements of this section. Prior to approval, the permittee must provide the following in accordance with:

R645-301-341: Species lists three and five in the revegetation plan are identical, and list three should be eliminated. In addition, the application says list three will be used to revegetate wildlife areas. Since no wildlife areas are identified and species list one contains species suited for the habitat in the permit area, this reference should be removed.

LAND USE RECLAMATION PLAN

Regulatory Reference: R645-301-412

Analysis:

Chapter 4 says land use is restricted to non-intensive, non-developed uses. Later in this chapter, the plan says the permittee has no intention of requesting regulatory authority approval for redesignation of the present land use which is grazing and wildlife habitat.

Section 3.2 says the pre- and postmining land uses for Sowbelly Gulch are wildlife habitat and grazing. In Hardscrabble Canyon, the postmining land use is for, but not limited

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to: public access or use; hunting; access for the Bureau of Land Management for land management; access for grazing; mountain biking; educational field trips; and/or other recreational uses.

It appears the term "non-developed land" is used synonymously with grazing, wildlife habitat, watershed, and recreation. While the uses are similar, there are important differences in the degree of management, and the designation makes a difference in what revegetation success standards apply.

The descriptions of the land uses need to be consistent throughout the plan. If the premining land use is undeveloped land with some grazing, wildlife, and recreational use, the different sections need to reflect this.

Findings:

Information provided in the proposed amendment is not considered adequate to meet the requirements of this section of the regulations. Prior to approval, the permittee must provide the following in accordance with:

R645-301-412: Descriptions of the pre- and postmining land uses need to be consistent throughout the plan.

RECOMMENDATIONS

The application needs to be corrected as discussed in this review. While the amendment should not be approved until the permittee takes care of the problems, none of the issues are of the nature to deny ultimate approval.

Except for deleting some major sections, there are few changes to the plan. However, because of the deletions, it will be necessary for the Division to eventually update the technical analysis.