

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

January 15, 2008

TO: Internal File

THRU:  Dana Dean, Team Lead 

FROM: Priscilla Burton, Certified Professional Soil Scientist 

RE: 2006 Midterm Review, Castle Gate Holding Company, Castle Gate Mine, C007/0004, Task ID #2622

SUMMARY:

The mid-term review was initiated by letter dated August 29, 2006 (2006 Outgoing 0016.pdf). Although the mined land has been reclaimed for a number of years, upon review of the legal financial information in the MRP, approval is not recommended.

R645-300-124.300, The Appendix 2-3 list of officers and directors for Castle Gate Holding Co. and its corporate owners was moved to the Confidential file in March 2006. Ownership and control information is NOT confidential. This information should be replaced in Appendix 2-3, (social security numbers may be withheld from the publicly available information).

R645-301-112 and R645-301-121.100, Chapter 2 must be updated to list the name and contact information for the current registered agent and the current mailing address for the Castle Gate Holding Co, as well as the current corporate ownership of Castle Gate Holding Co.

R645-301-112.400, The list of affiliated companies in appendix 2-4 must be updated.

R645-301-113.200 et seq, The Appendix 2-7 list of violations that were issued in the past three years to Castle Gate and affiliates must be updated and section 2.1-3 should be updated as necessary.

R645-301-112.500, R645-301-112.600, and R645-301-121.100, Surface ownership in Section 2.1-2(4) should be updated as necessary.

R645-301-111.400, the AVS format requires notarized statements from the corporate Secretaries as to the veracity of the ownership and control information.

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TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

A disclaimer was incorporated into the front of the MRP in 1998 to state that Castle Gate Holding Company had obtained the permit rights for the Castle Gate Mine on July 9 1998 and that all reference to AMAX Coal Co. should be replaced with Castle Gate Holding Co when reading the Mining and Reclamation Plan.

The MRP provides an organizational chart showing corporate ownership and control of Castle Gate Holding Co. in Appendix 2-3. This information was incorporated March 14, 2006. The Incoming records on file in the PIC do not show any additional information since that time.

Appendix 2-3 indicates that Castle Gate Holding Co. is wholly owned by Foundation Midwest Holding Co. (formerly RAG Midwest Holding Co., name changed in 2004), which in turn is wholly owned by Foundation American Coal Co., L.L.C. (formerly RAG American Coal Co., named changed in 2004), which is wholly owned by Foundation American Coal Holdings, Inc., which is wholly owned by Foundation Coal Corp., which is entirely held by FC 2 Corp which is in turn held by Foundation Coal Holdings Inc. which is jointly held by the publically traded companies First Reserve Fund IX, L.P. (19%) and Blackstone FCH Capital Partners IV L.P. (18%). Castle Gate Holding Co. and all of its corporate owners report the same address: 999 Corporate Blvd; Linthicum Heights MD. Castle Gate Holding Co. and all of the holding companies are incorporated in Delaware. Thus, the organizational chart appears to fulfill the requirements for outlining ownership and control, except that only 37% of the ownership at the top of the chart is stated. But, this error was corrected with a document dated November 6, 2006 which is added to the confidential file on March 15, 2007. Section 2.1-2 of the MRP does not explain corporate ownership any further. It still refers to ownership by RAG. Chapter 1 lists an outdated mailing address for the Castle Gate Holding Co. and for correspondence.

The organizational chart in Appendix 2-3 provides notation indicating which affiliates hold coal mining permits. The list of affiliated companies in appendix 2-4 must be updated.

The Appendix 2-3 list of officers and directors for Castle Gate Holding Co. and its corporate owners was moved to the Confidential file in March 2006. Ownership and control

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information is NOT confidential. This information should be replaced in Appendix 2-3, social security numbers may be withheld from the public document. Changes in officers are clearly noted with beginning and ending dates. As per R645-301-111.400, the AVS format requires a no notarized statements from the corporate Secretaries as to the veracity of the ownership and control information.

Findings:

The information provided does not meet the requirements of the Regulations. Prior to approval, the Permittee must provide the following in accordance with,

R645-300-124.300, The Appendix 2-3 list of officers and directors for Castle Gate Holding Co. and its corporate owners was moved to the Confidential file in March 2006 and was superceded by information placed in the confidential file in November 6 2007. Ownership and control information is NOT confidential. The current information must be replaced in Appendix 2-3, social security numbers may be withheld from the public document.

R645-301-111.400, the AVS format requires notarized statements from the corporate Secretaries as to the veracity of the ownership and control information.

R645-301-112 and R645-301-121.100, Chapter 2 must be updated to list the current mailing address for the Applicant/Permittee, Castle Gate Holding Co. and for correspondence. In addition, Chapter 2 must describe the current corporate ownership of Castle Gate Holding Co.

R645-301-112.400, The list of affiliated companies in appendix 2-4 must be updated.

VIOLATION INFORMATION

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

Analysis:

As required by R645-301-113.100, Section 2.1-3 of the MRP affirms that no suspensions or revocations or forfeitures had been recorded as of 1999. This statement should be updated if necessary. The most current list dated 1999 is found in Appendix 2-7. The list of violations issued in the past three years to Castle Gate Holding Co. and affiliates must be updated.

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Findings:

The information provided does not meet the requirements of the Regulations. Prior to approval, the Permittee must provide the following in accordance with,

R645-301-113.200 et seq., The Appendix 2-7 list of violations that were issued in the past three years to Castle Gate and affiliates must be updated and section 2.1-3 should be updated as necessary.

RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

Analysis:

Coal lease documents are provided in Appendix 2-1

Section 2.1-2(4) incorrectly lists the surface owner as Plateau Mining Corporation.

Findings:

The information provided meets the requirements of the Regulations.

R645-301-112.500, R645-301-112.600, and R645-301-121.100, Surface ownership in Section 2.1-2(4) and Section 2.1-2(5) should be updated as necessary.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

Analysis:

The underground lease boundary is stated in Section 2.1-4 and illustrated on Exhibit 1-1. Section 2.1-5 addresses suitability.

Findings

The available information meets the requirements of the Regulations.

PERMIT TERM

Regulatory References: 30 CFR 778.17; R645-301-116.

Analysis:

The permit was issued December 24, 2004.

Findings:

The information available meets the requirements of the Regulations.

PUBLIC NOTICE AND COMMENT

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

Analysis:

The mid-term permit review was initiated following R645-303-211. There is no requirement for public notice of a mid-term review.

Findings:

The information presented meets the requirements of the Regulations.

BONDING AND INSURANCE REQUIREMENTS

Regulatory Reference: 30 CFR Sec. 800; R645-301-800, et seq.

Analysis:

General

In May 2006, the bond was reduced from \$680,154 (listed in the 2004 permit) down to \$490,100, as a result of Phase 1 bond release at Adit #1, Sowbelly substation and Hardscrabble substation (2006 Incoming 0006.pdf).

Findings:

The information provided meets the requirements of the Regulations.

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RECOMMENDATIONS:

Approval is not recommended.

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