



State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

July 28, 2015

Carl Winters, Mine Manager
Canyon Fuel Company, LLC
HC 35 Box 380
Helper, Utah 84526

Subject: Flat Canyon Lease Addition, Canyon Fuel Company, LLC, Skyline Mine, C/007/0005, Task ID #4806

Dear Mr. Winters:

The Division has reviewed your application. The Division has identified deficiencies that must be addressed before approval can be granted. The deficiencies are listed as an attachment to this letter.

The deficiencies authors are identified so that your staff can communicate directly with that individual should questions arise. The plans as submitted are denied. Please resubmit the entire application.

If you have any questions, please call me at (801) 538-5325.

Sincerely,

Daron R. Haddock
Coal Program Manager

DRH/sqs

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Technical Analysis and Findings

Utah Coal Regulatory Program

PID: C0070005
TaskID: 4806
Mine Name: SKYLINE MINE
Title: FLAT CANYON LEASE ADDITION

General Contents

Identification of Interest

Deficiencies Details:

R645-301-121.200 and R645-301-114.200, The application is not clear because Section 112.600 erroneously refers to Map 1.6-3 for land ownership.

pburton

Right of Entry

Deficiencies Details:

R645-301-114, Please update Table 1.114 with the date of lease issuance.

pburton

Completeness

Deficiencies Details:

Information provided in the application does not meet the minimum requirements of R645-301.150. Prior to approval the application will be complete and will include a copy of the Flat Canyon Federal Lease UTU-771114 with applicable stipulations.

Ireinhardt

Environmental Resource Information

General

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-521 due to information stated the mine plan details, plates, and drawings conflicting with the Federal stipulations. The mine plan also details mining operations outside the provided legal description of the mine boundary, as shown on Drawing 1.6-3. The application failed to address any of the Federal stipulations, i.e. #9 and #23 details specification for mining under the Flat Canyon Campground, while Federal

stipulation #22 list requirements for mining operations to occur under the Boulger Reservoir. The application also provided conflicting information detailing mining plans outside the provided mine boundary, as shown on Drawing 1.6-3. The mine plan shows operations outside of the mine boundary in T.13., S.R.6.E. Section 32 and T.14.S., R.6E., Section 6 and Section 3.

cparker

Permit Area

Deficiencies Details:

The application does not meet the minimum requirements of R645-301521 due to information stated in the mine plan details and plates that conflict with the provided legal description of the mine boundary. The mine plan shown on Plate 3.1.8-2 details mining operations outside the legal description detailed on drawing 1.6-3 as well as in Chapter 1. Specifically the mine plan shows operations outside of the mine boundary in T.13., S.R.6.E. Section 32 and T.14.S., R.6E., Section 6 and Section 3.

cparker

Historic and Archeological Resource Information

Deficiencies Details:

Information provided in the application is not considered adequate to meet the minimum requirements of the regulations. Prior to approval the permittee must provide a narrative that describes coordination efforts with and present evidence of clearances by the SHPO in accordance R645-301-411.140

Ireinhart

Vegetation Resource Information

Deficiencies Details:

Information provided in the application does not meet the minimum requirements of R645-301-321. Prior to approval, the permittee must submit a plan for monitoring the riparian vegetation near perennial streams and/or reservoirs and the associates effects to aquatic ecosystems and wetlands. The plan shall also include measures for mitigating detrimental effects discovered during monitoring.

Ireinhart

Fish and Wildlife Resource Information

Deficiencies Details:

Information provided in the application is not considered adequate to meet the minimum requirements of the regulations. Prior to approval the permittee must update the resource information regarding threatened and endangered species in accordance with R645-301-322.

The Western Yellow-Billed Cuckoo was recently listed as "Threatened" and has proposed critical habitat in the area. An evaluation of this habitat and the potential to impact this species must be considered. Emphasis should be on all riparian areas and impacts from subsidence.

The application fails to recognize fish and wildlife dependant on Boulger reservoir. Although surface disturbance is not anticipated, the ROD indicates the dam will need to be taken out of service and the reservoir drained while mining is taking place. Prior to approval, the application must address fish and wildlife that may be impacted by this activity and to what extent.

Table 2-72a has been updated to include fish monitoring for Boulger creek for 2016, 2019, and 2022. No monitoring is proposed on Boulger Reservoir. Section 2.9 indicates a raptor/wildlife/sensitive species survey of the area was conducted in 2011 and 2012 which updated both raptors and other wildlife in the area to meet the Special Coal Lease Stipulations #2, #3, and #14 as outlined in the ROD and referenced in Attachment 1, pp2-3. However, this attachment is not available with the application. Prior to approval, the permittee must provide a copy of the Special Coal Lease Stipulations for the Division to review.

Table 2.9-5 includes a list of Utah Sensitive Species List. Although "Revised 2-1015" is typed at the bottom of the

report, the actual list is current as of March 29, 2011. Prior to approval, the type "Revised" text must be removed or corrected since it is misleading.

The text in 2.9.7 Wildlife of the Southwest Reserve Flat Canyon Lease relies heavily on the information provided in the EIS by USFS. That information is outdated (2002) and new species have been added to the T&E list and as such only current information should be referenced.

Irreinhart

Land Use Resource Information

Deficiencies Details:

Information provided in the application is not considered adequate to meet the minimum requirements of the regulations. Prior to approval the permittee must provide a narrative of all existing land uses and land-use classifications under local law of the proposed permit and adjacent area in accordance with R645-301-411.

In accordance with UTT-77114 Stipulation #23, prior to approval, the permittee will commit to submit a plan for mining under the Flat Canyon Campground 2 years prior to development of the panels that would cause subsidence of associated facilities. This plan shall include but not be limited to mining, when and how the Flat Canyon Campground will be taken out of service and what mitigation measures will be taken to place the Flat Canyon Campground back into full service.

Irreinhart

Geologic Resource Information

Deficiencies Details:

R645-301-622. Cross Sections, Maps and Plans. Plate 2.2.4-1 D provides a fence diagram of the stratigraphy and the seams to be mined. This plate may be miss-labeled as it is referred to as Drawing 2.3.4-1D in various sections of the text. This discrepancy should be corrected. Also geologic cross-sections and maps in the application are required to be certified and none have been.

dhaddock

Hydro Baseline Cumulative Impact Area

Deficiencies Details:

R645-301-725 The Permittee must provide a detailed description of all water resources within the lease area. This includes a detailed description of Boulger Reservoir and its uses. A list of all developed springs should be provided, as well as a description of the existing development structures, and uses.

R645-301-725 & 728 There are a number of Federal lease stipulations from the BLM and FS related to hydrologic resources that need to be addressed in the MRP.

R645-301-725 It is unclear if the perennial reaches of stream is Little Swens Canyon, Swens Canyon, Flat Canyon, and Boulger Canyon are continuously perennial through the entire sections within the Flat Canyon lease boundary. Please clarify what stretches are perennial using maps if necessary.

R645-301-728 The submitted PHC indicates that there are potential impacts to Eccles Creek should discharge rates from the mine reach or exceed 15,000 gpm. Currently, there is a 2002 study conducted by EarthFax Engineering in the MRP that evaluates the stream bank stability under high flow conditions. The Division feels that some kind of addition should be made to this study to indicate the current most up to date conditions of the stream banks. Also, with the possibility of stream bank erosion on Eccles Creek, the Permittee should propose some type of stream banks inspection program, should the mine discharge begin elevating, that would indicate if there are any impacts to the creek from mining.

adaniels

Hydro GroundWater Monitoring Plan

Deficiencies Details:

R645-301-724.100 A number of baseline spring monitoring locations have either not had the minimum baseline parameters sampled for since the late 1990s, or have not had 2 years of low and high flow sampling. Please provide any additional

spring sampling that has taken place.

R645-301-724.100 There appears to be a discrepancy between spring monitoring locations 32-279, 32-278 and 32-277 between Plate 2.3.6-1, Table 2.3.7-1, Table 5 of the Peterson Hydrologic report and Figure 2 of the Peterson Hydrologic report. This needs to be corrected.

adaniels

Hydro SurfaceWater Monitoring Plan

Deficiencies Details:

R645-301-724.200 A number of baseline stream monitoring locations have not had 2 years of low and high flow sampling for the minimum monitoring parameters, and not since the late 1990s. Please provide any additional stream sampling that has taken place.

R645-301-724.200 Please provide baseline monitoring data for stream monitoring site CS-27, CS-28, and the new monitoring location above mining in Boulger Canyon.

adaniels

Maps Affected Area Boundary Maps

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-521.100 through-521.130 by not updating all the relevant maps for the entire area shown on the mine plan as detailed on Plate 3.1.8-2. The Permittee will correct the mine boundary line on Drawing 1.6-3 to match the mine plan presented on Plate 3.1.8-2.

cparker

Maps Archeological Site Maps

Deficiencies Details:

Information provided in the application is not considered adequate to meet the minimum requirements of R645-301-411.141. Prior to approval the permittee must provide a map clearly showing the boundaries of any public park and locations of cultural or historical resources listed or eligible for listing in the National Register of Historic Places and known archeological sites within the permit and adjacent areas. Note - Information on the nature and location of archeological resources on public land and Indian land as required under the Archeological Resources Protection Act of 1979 must be submitted separately from the application, and marked and held as confidential.

lreinhart

Maps Mine Working

Deficiencies Details:

R645-301-521.140 requires maps that clearly show all mine plans. The application does not meet the minimum requires as all relevant existing drawings and plates were not updated. As previously state the Permittee will: correct the mine boundary line on Drawing 1.6-3 to match the mine plan presented on Plate 3.1.8-2, provide a new detailed map calling out all the surface and subsurface man made features relevant in the new Flat Canyon Lease area, update Drawing 2.2.7-1 to include the full extent of the mine plan, update Drawing 2.2.7-3 to include the full extent of the mine plan, and update Drawing 2.2.7-4 to include the full extent of the mine plan. Mine plan maps may show proposed workings outside of the existing boundary if a note is added to the map stating "Any projected mining shown beyond existing lease boundary lines is subject to future lease modifications and approvals."

cparker

Maps Permit Area Boundary

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-521.140 as Drawing 1.6-3 was updated within the

application to detail the new permit boundary, lease boundary, and adjacent areas to include the Flat Lease. The new mine boundary does not include T.13., S.R.6.E. Section 32 and T.14.S., R.6E., Section 6 and Section 3 which Plate 3.1.8-2 shows mining operations will be conducted within. The Permittee will correct the mine boundary line on Drawing 1.6-3 to match the mine plan presented on Plate 3.1.8-2.

cparker

Maps Surface and Subsurface Manmade Features

Deficiencies Details:

R645-301-521.120 through-521.125 requires maps to clearly show existing surface and subsurface facilities. The application does not meet the minimum requirements of R645-301-521.122 as it fails to include a drawing or plate that clearly calls out the existing surface and subsurface man made features within, passing through, or passing over the permit area such as SR-264, facilities such as buildings and pipelines associated with the Flat Canyon compound, and Boulger Reservoir/Dam. The Permittee will provide a new detailed map calling out all the surface and subsurface man made features relevant in the new Flat Canyon Lease area.

cparker

Maps Surface Water Resource

Deficiencies Details:

R645-301-722 Plate 2.3.5.1-1 needs to be updated to include the entirety of the Flat Canyon lease area. Currently it does not extend far enough to the west.

adaniels

Maps Vegetation Reference Area

Deficiencies Details:

Information provided in the application is not considered adequate to meet the minimum requirements of R645-301-323. Prior to approval the permittee must provide maps identifying each vegetative type and plant community, including sample locations that may be impacted from subsidence, specifically riparian areas and wetlands.

ireinhart

Operation Plan

Mining Operations and Facilities

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-526 due to a failure to address any of the Federal Stipulations of the lease in Chapter 3 and Chapter 4, page 4-94. The Permittee will add discussion to Chapter 3 and Chapter 4 detailing how the various Federal stipulations will be met within the planned mining operations.

cparker

Existing Structures

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-526 because Chapter 2 page 2-132 was not updated to include the discussion of the existing buildings of the Flat Canyon Campground, Boulger Reservoir, any relevant oil and gas wells in the area, and SR-124. The application also fails to reference any procedures to meet the Federal stipulation 9, 22, and 23 relevant to said existing structures. The Permittee will add text to Chapter 3 section 3.1.7 in the event of any oil and gas wells in the area and section 3.1.6 for plans to protect the other features listed in the Federal stipulations.

cparker

Protection Public Places

Deficiencies Details:

Information provided in the application is not considered adequate to meet the minimum requirements of R645-301-411.144.

Prior to approval, the applicant must provide measures that will be implemented to protect historic or archeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Potential impacts from subsidence on eligible NRHP sites (42Sp44S & 42Sp443) must be addressed.

Prior to approval the permittee must provide measures that will be implemented to protect the Boulger Canyon dam, reservoir, and associated recreation area and Flat Canyon Campground in accordance with R645-301-413. Mining induced subsidence and seismicity could damage facilities at these locations. Reference BLM ROD pages 3-4.

ireinhardt

Relocation or Use of Public Roads

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-521.133 due to missing information detailing measure to be used such as a general mining method that will be employed under or within 100 ft of public roads to protect interest of the public. The Permittee will add a section to Chapter 3 detailing how mining operations will be conducted within 100 feet or under public roads and then detail in Chapter 4 section 4.17 what measure will be taken to reduce the risk of subsidence damage the public road.

cparker

Air Pollution Control Plan

Deficiencies Details:

Prior to approval, the permittee will update the application to include a description of coordination and compliance efforts which have been undertaken by the applicant with the Utah Division of Air Quality in accordance with R645-301-420.

ireinhardt

Coal Recovery

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-522 due to a missing discussion on how the Federal stipulation will be met in Chapter 3. The Permittee will add text to Chapter 3 section 3.1.2. and as needed in Chapter 4 Section 4.17.3 detailing the process of coal recovery as shown on the mine plan Plates 3.1.8-2, 3.3-2 and 3.3-3. The Permittee needs to clarify what seams will be mine and the order of seam mining under protected areas.

cparker

Subsidence Control Plan Renewable Resource

Deficiencies Details:

The minimum requirements of R645-301-525.130 are not met in the application as the Permittee did not presented a clear survey of all state appropriate water supplies within the permit area and adjacent area that could be contaminated, diminished , or interrupted by subsidence

cparker

Subsidence Control Plan Subsidence

Deficiencies Details:

The minimum requirements of R645-301-525.300 are not met in the application as the Permittee failed to address the Federal stipulations for UTU-77114, Flat Canyon Lease and present a clear subsidence plan for protected areas. The Permittee will add text to Chapter 4 Section 4.17 to address the Federal Stipulation #22 specific to Boulger reservoir, Federal Stipulation #9 and #23 specific to Flat Canyon Campground, and measures to be taken for mining under SR-127.

The Permittee will also correct text in Chapter 4 Section 4.17.3. page 4-95 that states mining will not commence under Upper Huntington Creek, Boulger Creek inlets to the reservoir, and Electric Lake to fit the mine plan as depicted on Plate 3.1.8-2.

cparker

Subsidence Control Plan Subsidence

Deficiencies Details:

R645-301-632. Subsidence Control-- the subsidence control plan must provide a method of verifying the amount of subsidence or lack thereof. A monitoring plan must be put in place that will determine the commencement and degree of subsidence within and adjacent to the Flat Canyon lease area.

dhaddock

Subsidence Control Plan Performance STD

Deficiencies Details:

The application is deficient under R645-301-525 as it fails to mention any plans for mining under the Flat Canyon Campground, Federal stipulations #9 and #23. The Permittee will add text to the application in Chapter 4 section 4.17.3 detailing the measure that will be taken to meet the Federal stipulations and detail measure that will be taken when mining under protected areas. Detail will included appropriate performance measure in place to measure the extent of damage in the event of subsidence.

cparker

Fish and Wildlife Protection and Enhancement Plan

Deficiencies Details:

Information provided in the application is not considered adequate to meet the minimum requirements of R645-301-332. Prior to approval the permittee must provide a description of the anticipated impacts of subsidence on fisheries and terrestrial wildlife.

Although only Boulger creek is proposed to be monitored for fish populations, the Permittee must submit a plan for monitoring subsidence impacts on other perennial streams (Swens, Little Swens, Flat Canyon) within the lease and the associated effects to aquatic ecosystems and wetlands in accordance with Stipulation #24 of the lease.

The Western Yellow-Billed Cuckoo, was recently listed as "Threatened" and has proposed critical habitat in the area. The Permittee must provide a plan to monitor presence of this species. The Permittee shall promptly report to the Division any State- or federally-listed endangered or threatened species within the permit area of which the Permittee becomes aware. Upon notification, the Division shall consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the Permittee may proceed.

ireinhart

Fish and Wildlife Endangered and Threatened

Deficiencies Details:

The application fails to address 9 of 10 species that are listed by the Secretary under the Endangered Species Act of 1973, as amended, or those species or habitats protected by similar state statutes in accordance with R645-301-322.200-230. Prior to approval, the application must consider potential effects and identify protection measures for the following species: Greater Sage-grouse, Mexican Spotted Owl, Southwestern Willow Flycatcher, Yellow-billed Cuckoo, Bonytail Chub, Colorado Pikeminnow, Humpback Chub, Razorback Sucker, Barneby Reed-mustard, Jones Cycladenia. Section 2.9.7 states that Figure 2.9-4 and 2.9-5 have been updated in 2015 which is not correct and should be corrected for to reflect the actual date the list was updated.

ireinhart

Fish and Wildlife Wetlands and Habitats High Value

Deficiencies Details:

The application fails to address how the operator will minimize disturbances and adverse impacts on fish and wildlife during undermining of the reservoir which is a habitat of unusually high value for fish and wildlife.

Prior to approval, the permittee must submit a plan for the protection of fish and wildlife throughout the life of the mine in accordance with R645-301-331 through R645-301-333. Additionally, the permittee must submit a plan for mining under Boulger Reservoir. This plan shall include but not be limited to type of mining, when and how the dam will be taken out of service while undermining and/or subjected to mining induced acceleration of 0.1 and greater, and what mitigation measures will be taken to place the dam and reservoir back into full service in compliance with Stipulation #22 of the ROD.

lreinhart

Vegetation

Deficiencies Details:

The application fails to address how the operator will monitor impacts to riparian vegetation as a result from subsidence. Prior to approval, the application must describe how the operator will monitor and potentially mitigate impacts to riparian and wetland vegetation in accordance with R645-301-333.

lreinhart

Hydrologic General

Deficiencies Details:

R645-301-731 The Permittee should provide a plan to comply with federal leasing stipulation #22 regarding mining under Boulger Reservoir.

adaniels

Hydrologic Ground Water Monitoring

Deficiencies Details:

R645-301-731.210 During the June 18, 2015 hydrology field work day, there was a discussion about identifying additional springs within the lease for additional water monitoring. The plan should be updated to include any additional information that may have come from this discussion.

adaniels

Hydro Surface Water Monitoring

Deficiencies Details:

R645-301-731.220 During the June 18, 2015 hydrology field work day, there was a new stream monitoring location established in Boulger Canyon. The plan should be updated to include any additional information that may have come from this discussion.

adaniels

Maps Affected Area

Deficiencies Details:

see analysis in Environmental Resources Maps Affected

cparker

Maps Facilities

Deficiencies Details:

see analysis and deficiencies in Environmental Resources Mining Facilities Maps

cparker

Maps Mine Workings

Deficiencies Details:

See analysis and deficiencies in Environmental Resources Mine Working Maps

cparker

Maps Certification Requirements

Deficiencies Details:

R645-3010-512 minimum requirements are not met as all mine drawings and plates are not stamped by a Utah certified professional engineer with experience in underground mining operations.

cparker

Reclamation Plan

PostMining Land Use

Deficiencies Details:

Prior to approval, the permittee must comply with R645-301-412. The application will contain a detailed description of the post-mining land use including how it is to be achieved.

Ireinhart

WildLife Protection

Deficiencies Details:

Prior to approval, the permittee must comply with R645-301-342. Where wetlands and habitats of unusually high value for fish and wildlife occur, the operator conducting underground mining activities shall provide a description of the measures taken to avoid disturbances to, enhance where practicable, restore, or replace, wetlands and riparian vegetation along rivers and streams and bordering ponds and lakes. Designs and plans for underground mining activities shall include measures to avoid disturbances to, enhance where practicable, or restore habitats of unusually high value for fish and wildlife.

Ireinhart

Maps Reclamation Certification Requirments

Deficiencies Details:

R645-3010-512 minimum requirements are not met as all mine drawings and plates are not stamped by a Utah certified professional engineer with experience in underground mining operations.

cparker

Bonding and Insurance General

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-800 as the application is currently being reviewed by the Division in an effort to expedite the significant revision process. No bonding information or maps were included within the application at this time. The Permittee will submit detailed bond information in regards to the Flat Canyon lease.

cparker

Bonding Form of Bond

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-860.100 as the application is currently being reviewed by the Division in an effort to expedite the significant revision process. The current surety bond amount of

\$5,799,00 is held by Lexon Insurance Co with a rider held by Ironshore Indemnity Inc.

cparker

Bonding Determination of Amount

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-830.140 as the application is currently being reviewed by the Division in an effort to expedite the significant revision process. No bonding information or maps were included within the application at this time. The Permittee will submit detailed bond information in regards to the Flat Canyon lease.

cparker

Bonding Terms and Conditions Liability Insurance

Deficiencies Details:

The application does not meet the minimum requirements of R645-301-850 as the application is currently being reviewed by the Division in an effort to expedite the significant revision process. No bonding information or maps were included within the application at this time. The Skyline mine currently holds liability insurance through National Union Fire Ins Co, effective until 2/1/16. The insurance includes the required Marsh from, explosives and claims made per occurrence.

cparker