

## BEFORE THE STATE OF UTAH DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Petition of  
Kaiser Steel Corporation for  
Approval of Plans Relating to  
Certain Structures and Facilities  
and Clarification of Regulations

P E T I T I O N

The Applicant Kaiser Steel Corporation states:

1. That the Applicant operates underground mines in Carbon County, Utah, and that the Department of Interior, by regulations issued pursuant to the Surface Mining Control and Reclamation Act of 1977 (hereinafter "Act"), has asserted authority to regulate such operations as stated in 30 CFR 700 (hereinafter "Regulations").

2. That the Utah Department of Natural Resources, Division of Oil, Gas, and Mining (hereinafter "Department") is the state regulatory authority within the meaning of the Act and regulations.

3. That Section 710.11(2) of the Regulations make the following requirements with respect to structures and facilities:

§710.11 Applicability.

\* \* \*

(2) Any pre-existing, non-conforming structure or facility which is used in connection with or to facilitate mining after the effective date of these regulations shall comply with the requirements of the regulations, unless--

- (i) It is physically impossible to bring the structure or facility into compliance by the effective date;
- (ii) The permittee or operator submits to the regulatory authority by February 3, 1978, a plan designed by a professional engineer for the reconstruction of the structure or facility, March 1, 1978 being the extended date;
- (iii) The regulatory authority approves the plan; and
- (iv) Reconstruction is started and completed as soon as possible. No plan shall be approved unless construction is to begin on or before May 4, 1978, and is to be completed by November 4, 1978, at the latest.

4. That this Petition is filed with the Commission pursuant to said Section 710.11(2).

5. That the applicant has identified four aspects of its operations that appear to be affected by the regulations, and which are impossible of performance by May 4, 1978, each of which aspects is addressed separately below.

A. Refuse Pile

(i) Sections 715.15(b) and 717.15 of the Regulations appear to prohibit the disposal of waste in natural valleys and head-of-hollow fills. Sections 715.14(j) and 717.14(e) on the other hand, appear to permit disposal of waste and to require covering such waste with a minimum of four feet of nontoxic and noncombustible material. Kaiser's Sunnyside Mine operation is located within a mountainous area preventing disposal of waste in any area other than valley or head-of-hollow fills.

(ii) Because the regulation governing refuse piles is ambiguous in its application to Kaiser's mine, it is impossible for Kaiser to determine whether the regulatory authority would determine Kaiser's refuse piles to constitute nonconforming structures. Without clarification of the meaning of the regulation, it is impossible for a professional engineer to design a plan for reconstruction on removal of the refuse pile.

(iii) In the event the regulation were to be construed to prohibit such fills, it would be physically impossible to bring the refuse piles into compliance by May 4, 1978.

WHEREFORE, the applicant asks that the Department construe Sections 715.14(j), 717.14(e), 715.15(b) and 717.15 of the Regulations, and grant to applicant a reasonable time thereafter as and if necessary, to comply with such Regulations.

B. Waste

(i) Sections 715.18 and 717.18 state that no waste material shall be used in or impounded by existing dams without the approval of the regulatory authority.

(ii) The applicant maintains one waste dam and impoundment structure, which structure complies with MESA regulations.

(iii) Because the Department has not been authorized by the state law prior to February 3, 1978, to consider applications nor approval of such use of waste material, it has been impossible for the applicant to make application for such approval, and it is consequently impossible for applicant to determine whether such waste dam and impoundment is a nonconforming structure.

(iv) Because of the brief period of time between the issuance of the Regulations and the March 1, 1978, deadline for submission of this Petition, it has been impossible for applicant to prepare the required engineering analysis to determine whether stability and construction requirements are met by the existing structure.

WHEREFORE, the applicant asks that the Department grant applicant a reasonable time within which to submit its application for approval of the use of waste material in applicant's waste dam and impoundment.

C. Sediment Control Measures

(i) Section 715.17(e) of the Regulations appears to require the construction of additional sedimentation control measures in connection with applicant's surface operation.

(ii) Due to weather and the UMWA strike, it is physically impossible to construct such structures by May 4, 1978.

(iii) Clarification of this section, as to whether or not additional sedimentation control will be required at this location, is needed.

WHEREFORE, the applicants asks that the Department provide clarification of this section of the Regulations and grant the applicant reasonable time within which to construct additional sedimentation control measures if deemed necessary.

D. Roads

(i) Sections 715.17 and 717.17 impose various requirements with respect to use of roads and other transportation facilities.

(ii) While it appears that certain of applicant's roads may not conform with the requirements of the said sections, there has been insufficient time following issuance of the regulations for applicant's professional engineer to determine the nature of a plan for reconstruction.

(iii) It is physically impossible to bring all such structures into compliance by May 4, 1978.

WHEREFORE, applicant asks that the Department clarify the aforementioned statements.

WHEREFORE, applicants asks:

1. That the Department accept this Petition and determine that such Petition substantially meets the requirements of Section 710.11(2) of the Regulations entitling the applicant to exemption provided by such section.
2. That the Department set a hearing on applicant's Petition forthwith.
3. That the Department as such hearing, consider and determine the issues raised by this Petition.

KAISER STEEL CORPORATION

By: Lloyd A. Heath  
Lloyd A. Heath, Mine Manager

By: Tom Paluso  
Tom Paluso, Registered  
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