0008

~~J. Smith~~

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MAY 2 1984

DIVISION OF OIL GAS & MINING

United States Department of the Interior
OFFICE OF SURFACE MINING
Reclamation and Enforcement
BROOKS TOWERS
1020 15TH STREET
DENVER, COLORADO 80202

APR 3 0 1984

cc: To Sue, Pam
Jim S.
File
PRO/007/009
Folder 2, 4

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

JIM

MAY 1 4 1984

20 conditions to approval for 5-yr permit term

Mr. S. O. Ogden, President
Sunedco Coal Company
P.O. Box 35 B
Lakewood, Colorado 80235

Dear Mr. Ogden:

Enclosed is the Sage Point-Dugout Canyon Mine permit with conditions. This permit will become effective only when the Office of Surface Mining (OSM) has received a copy of the bond in the amount of $611,875.00 payable to both the State of Utah and the United States of America.

Please read the permit to be sure you understand the requirements and conditions. Pursuant to 30 CFR 787.11, Sunedco Energy Development Company will have 30 days from the date of official notification to appeal the Director's decision on the application.

Also enclosed is a copy of the newspaper notice we are sending to the Sun Advocate, Carbon County, Utah, to be published as soon as possible. When published, this notice will constitute official notification of our action. Any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final decision within 30 days from the date that notice is published.

The permit has been provided in duplicate, so you can retain one copy with original signatures and return one copy with original signatures to us as an expressed acknowledgement that you have read and understood it. The complete decision package is available upon request.

The Assistant Secretary for Land and Minerals Management approved the mining plan on April 26, 1984. The enclosed permit has been determined to be consistent with this plan.

If you have any questions, please feel free to call me at (303)837-5656 or Shirley Lindsay at (303)837-3806.

Sincerely,

Allen D. Klein
Administrator
Western Technical Center

Enclosures

cc: Mr. Jackson Moffitt
Bureau of Land Management

Mr. Gene Nadine
Bureau of Land Management

Dr. Dianne Nielson
Utah Division of Oil, Gas, and Mining

Mr. Robert Hagen
Albuquerque Field Office
Office of Surface Mining

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING

This permit, UT0041 which incorporates Utah Permit ACT/007/009, is issued for the United States of America by the Office of Surface Mining (OSM) to

Sunedco Coal Company
7401 W. Mansfield Avenue
P.O. Box 35
Lakewood, Colorado 80235

for the Sage Point - Dugout Canyon mine. Sunoco Energy Development Company is the lessee of Federal Coal Leases U-07746; U-092147; U-0144820; U-07064-027821. The permit is not valid until a performance bond is filed with the OSM in the amount of $611,875.00, payable to the United States of America and the State of Utah, and the OSM has received a copy of this permit signed and dated by the permittee.

Sec. 1 STATUTES AND REGULATIONS - This permit is issued pursuant to the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq., hereafter referred to as SMCRA, and the Federal coal leases issued pursuant to the Mineral Leasing Act of February 15, 1920, as amended, 30 U.S.C. 181 et seq., the Federal Coal Leasing Amendments Act of 1976, as amended 30 U.S.C. 201 et seq. and in the case of acquired lands, the Mineral Leasing Act for Acquired Lands of September 7, 1947, as amended, 30 U.S.C. 351 et seq. This permit is also subject to all regulations of the Secretary of the Interior including, but not limited to, 30 CFR Chapter VII and 43 CFR 3400, and to all regulations of the Secretary of Energy promulgated pursuant to Section 302 of the Department of Energy Organization Act of 1977, 42 U.S.C. 7152, which are now in force or, except as expressly limited herein, hereafter in force, and all such regulations are made a part hereof.

Sec. 2 The permittee is authorized to conduct surface coal mining and reclamation operations on the following described Federal lands (as shown on ownership map) within the permit area at the Sage Point - Dugout Canyon situated in the State of Utah, Carbon County, and located:

T. 13. S., R. 12. E., Salt Lake Meridian; sec. 9, S1/2 SE1/4; sec. 10, S1/2; sec. 11, S1/2; sec. 14, All; sec. 15, All; sec. 16, E1/2; sec. 21, NE1/4; sec. 22, N1/2, SE1/4, N1/2 SW1/4, SE1/4 SE1/4 SW1/4, E1/2 NE1/4 SE1/4 SW1/4, E1/2 SW1/4 SE1/4 SW1/4; sec. 23, N1/2, SE1/4, N1/2 SW1/4; sec. 26, N1/2 NE1/4; sec. 27, NW1/4, NW1/4 NE1/4, N1/2 SW1/4, N1/2 S1/2 SW1/4; sec. 28, S1/2 N1/2 NE1/4, S1/2 NE1/4, S1/2 NE1/4 NW1/4, SE1/4 NW1/4 NW1/4, S1/2 NW1/4, NE1/4 NE1/4 SW1/4, N1/2 N1/2 SE1/4.

Road (County): T. 14. S., R. 11. E., Salt Lake Meridian; sec. 24, commence at Soldier Ck Rd SE1/4, SW1/4 NW1/4 thence thru sec. 3 and thru T. 14. S, R. 12. E., Salt Lake Meridian sections: 18, 17, 8, 5, 4, 3, and thence thru T. 13. S., R. 12. E., Salt Lake Meridian; sec. 34; and ending in sec. 27, SW1/4 SE1/4 SW1/4; for a distance of 7 miles with 100-foot width;

and to conduct surface and reclamation operations connected with mining on the foregoing described property subject to the conditions of the leases, the approved mining plan, and Utah State permit ACT/007/009, to be issued February 1984, including all conditions, and all other applicable conditions, laws and regulations.

Sec. 3 This permit is issued for a term of 5 years commencing on the date the permit is signed by the permittee, except that this permit will terminate if the permittee has not begun the surface coal mining and reclamation operations covered herein within 3 years of the date of issuance.

Sec. 4 The permit rights may not be transferred, assigned, or sold without the approval of the Director, OSM. Request for transfer, assignment, or sale of permit rights must be done in accordance with 30 CFR 740.13(e).

Sec. 5 The permittee shall allow the authorized representatives of the Secretary, including, but not limited to, inspectors, fee compliance officers, and the Utah Division of Oil, Gas and Mining without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:

a. Have the rights of entry provided for in 30 CFR 840.12 and 842.13; and

b. Be accompanied by private persons for the purpose of conducting an inspection in accordance with 30 CFR 842, when the inspection is in response to an alleged violation reported by the private person.

Sec. 6 The permittee shall conduct surface coal mining and reclamation operations only on those lands specifically designated as within the permit area on the maps submitted in the mining plan and permit application and approved for the term of the permit and which are subject to the performance bond.

Sec. 7 The permittee shall minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of this permit, including, but not limited to:

a. Accelerated monitoring to determine the nature and extent of noncompliance and the results of the noncompliance;

b. Immediate implementation of measures necessary to comply; and

c. Warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

Sec. 8 The permittee shall dispose of solids, sludge, filter backwash, or pollutants removed in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable State or Federal law.

Sec. 9 The lessee shall conduct its operations:

a. In accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and

b. Utilizing methods specified as conditions of the permit by Utah Division of Oil, Gas and Mining and OSM in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program, and the Federal Lands Program.

Sec. 10 The permittee shall provide the names, addresses, and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.

Sec. 11 The permittee shall comply with the provisions of the Water Pollution Control Act (33 U.S.C. 1151 et seq.) and the Clean Air Act (42 U.S.C. 7401 et seq.). Such compliance includes, but is not limited to obtaining an NPDES permit prior to any point source discharge.

Sec. 12 Upon expiration, this permit may be renewed for areas within the boundaries of the existing permit in accordance with the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 13 If during the course of mining operations previously unidentified cultural resources are discovered, the applicant shall ensure that the site(s) is not disturbed and shall notify OSM. The operator shall ensure that the resource(s) is properly evaluated in terms of National Register Eligibility Criteria (36 CFR 60.6). Should a resource be found eligible for listing in consultation with the OSM, the land managing agency (if the site is located on Federal lands), and the State Historic Preservation Officer (SHPO), the operator shall confer with and obtain the approval of these agencies concerning the development and implementation of mitigation measures.

Sec. 14 APPEALS - The lessee shall have the right to appeal: (a) under 30 CFR 775 from actions or decisions of any official of OSM; (b) under 43 CFR 3000.4 from an action or decision of any official of the Bureau of Land Management (BLM); (c) under 30 CFR 290 from an action, order, or decision of any official of the Minerals Management Service; or (d) under applicable regulations from any action or decision of any other official of the Department of the Interior arising in connection with this permit.

Sec. 15 SPECIAL CONDITIONS - In addition to the general obligations and of performance set out in the leases, Utah State permit ACT/007/009 and this permit, the permittee shall comply with the special conditions of Utah State permit ACT/007/009 and the conditions appended hereto.

These conditions are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors, and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them. These conditions may be revised or amended, in writing, by the mutual consent of the grantor and the permittee at any time to adjust to changed conditions or to correct an oversight. The grantor may amend these conditions at any time without the consent of the permittee in order to make them consistent with any new Federal or State statutes and any new regulations.

THE UNITED STATES OF AMERICA

By: _____

_____
Date

I certify that I have read and understand the requirements of this permit and any special conditions attached.

_____
Authorized Representative of
the Permittee

_____
Date

Conditions

Sunoco Energy Development Company
Sage Point-Dugout Canyon Mine
Carbon County, Utah

Condition No. 1 (817.42-(1)-DD/OSM1)

The applicant shall provide data showing anticipated sediment influent concentrations characteristic of the undisturbed drainages so as to determine the quality of effluents from both waste disposal sites and undisturbed drainages. Final designs for sedimentation ponds must show evidence of compliance with UMC 817.42 through design criteria that will meet State and Federal water quality and effluent limitations. The final pond designs shall be submitted to the regulatory authority at least 120 days prior to planned sedimentation pond construction. Construction shall not begin until the plans have been approved by the regulatory authority.

Condition No.2 (817.43-.45-(1-2)-DD)

1. The applicant must submit, at least 120 days prior to planned portal construction, longitudinal cross sections and design calculations for culverts emplaced under the portal areas used to divert undisturbed runoff. Construction shall not begin until this information has been found to be satisfactory by the regulatory authority.

2. All culverts and diversions shall discharge onto a protected surface (i.e., riprap, conveyor belting, flexible downspouts, etc.) to prevent scouring and erosion.

Condition No. 3 (817.45-.47-(1)-DD/DWH/OSM2)

At least 120 days prior to planned sedimentation pond construction, the applicant must demonstrate to the regulatory authority that the final designs for the sedimentation ponds at the portal areas will meet all applicable State and Federal water quality effluent limitations. Construction shall not begin until this demonstration has been found to be satisfactory by the regulatory authority.

Condition 817.49-(1)-DD/DWH is the same as 817.45-.47-(1)-DD/DWH above.

Condition No. 4 (817.49-(2)-DD/DWH/OSM3)

Within 120 days of permit issuance the applicant shall submit information, to supplement the conceptual plan presented in the application, which demonstrates compliance with UMC 817.49(Hydrologic Balance: Permanent and Temporary Impoundments) insofar as the requirements of this section relate to the Dugout Reservoir, a permanent impoundment. The required information shall be submitted to the regulatory authority for approval. The construction of Dugout Reservoir is not authorized until the applicant has complied with the requirements of this condition.

Condition No. 5 (817.50-(1)-DD/OSM4)

At least 120 days prior to construction of the portals, the applicant shall submit for regulatory authority approval, a plan for handling and treating all mine water discharges. This plan will be in accordance with UMC 817.50. Construction shall not begin until this plan has been approved by the regulatory authority.

Condition No. 6 (817.56-(1)-DD/OSM5)

Prior to cessation of operations the applicant shall submit specific details of transfer of title to the Dugout Reservoir. This transfer agreement must incorporate any responsibilities the new owner will need to assume as part of reservoir maintenance.

Condition No. 7 (817.57-(1)-DD)

Prior to any construction in the area the applicant shall establish markers establishing a 100-foot buffer zone along the perennial and intermittent streams adjacent to approved activities.

Condition No. 8 (817.61-.68/OSM7)

At least 120 days prior to the construction of any surface facilities, the applicant shall submit to the regulatory authority documentation of compliance with the (blasting) requirements of UMC 817.61-.68. Construction shall not begin until the documentation has been found to be satisfactory by the regulatory authority.

Condition No. 9 (817.95-(1)-PGL)

The applicant shall submit a letter at least 120 days prior to initial construction stating that the conditions outlined in the Bureau of Air Quality conditional approval will be met. (Conditional-approval letter from Brent C. Bradford to Nicholas K. Temnikov dated May 18, 1981, attached to TA.)

Condition No. 10 (817.97-(1)-SL/OSM9)

At least 120 days prior to any conveyor construction, final detailed designs showing exact location of the conveyor corridor, height of the belt from the ground along the entire length of the conveyor and the location and design of any proposed big game crossings must be submitted to the regulatory authority for approval. The design must be correlated with data collected during the UDWR study (Utah Division of Wildlife Resources, 1982) on big game movements through, and general use of the chosen conveyor corridors. In no case shall minimum height of the conveyor above-ground surface be less than that approved in the Bureau of Land Management's Special Use permit for this conveyor. The applicant has committed, as part of a wildlife mitigation plan, to carry out a big game movement monitoring program post-construction. Design of this monitoring program must be submitted to the regulatory authority for review and approval at least 120 days prior to conveyor construction. Based on the results of this study, the applicant may also be required to carry out certain big game mitigation practices, including but not limited to the construction of one or more big game crossings.

Condition No. 11 (UMC 817.97-(2)-SL)

A final wildlife mitigation plan must be submitted to the regulatory authority at least 120 days prior to any construction (other than initial road upgrading) detailing all measures Sunedco will take to lessen impacts of mining on wildlife in the permit area.

Condition No. 12 (UMC 817.97-(3)-OSM8)

The following are the conditions submitted by the Bureau of Land Management, incorporating certain U.S. Fish and Wildlife Service (USFWS) concerns. The BLM/USFWS conditions are as follows:

a. Widening of the existing roads along the riparian zone of Dugout Creek and Fish Creek shall be done oppposite the side adjacent to the riparian zones to the maximum extent practicable as determined by the operator in consultation with BLM's authorized officer.

b. Loss of riparian habitat on public lands through construction of facilities will be mitigated by upgrading adjacent riparian zones or establishing new riparian zones in conjunction with the Dugout Reservoir. Habitat upgrading will be accomplished by the operator prior to or during construction through coordination with BLM's authorized officer.

c. Loss of critical winter habitat for deer by destruction or disturbance will be mitigated by upgrading adjacent winter range. Habitat upgrading will be accomplished prior to initiation of surface construction by the operator through coordination with BLM's authorized officer.

d. Surface disturbances and facilities planned for the lease area shall be subject to Visual Resource Management considerations. Efforts shall be made to mitigate visual impacts by imitating the form, line, color and texture of the natural landscape to the greatest extent practical as determined by BLM's authorized officer. This will include painting of surface structures to blend with the surrounding terrain and minimal removal of vegetation in areas of proposed surface facilities.

e. Speed of vehicular traffic associated with the mine project should be reduced to no more than 40 miles per hour throughout the mine project area (critical deer winter range) during the period November 1 through May 15 to minimize deer fatalities. The use of the Swareflex Wildlife Reflector Warning System (Streiter Corp.) is recommended to further minimize deer fatalities.

f. Dugout Reservoir will be left intact at the end of mine life if such action is determined to be in public interest. The determination will be made by BLM's authorized officer at the end of mine life.

g. An inventory of areas of proposed surface disturbances shall be performed by the operator in consultation with the BLM's authorized officer to determine the presence of migratory birds. Mitigating measures will be prepared by the authorized officer to protect the habitat of migratory birds.

i. One active prairie falcon eyrie, one suspected prairie falcon eyrie and one golden eagle nest site (old) was documented by the USFWS and the UDWR. A buffer zone delineated on map 2 (attached) has been established for protection of these sites within which the following mitigating measures apply:

C. Prohibit all surface construction activities within the buffer zone (map 2) during the critical nesting period, March 15 to June 15. Surface construction may be initiated on June 1 if a nesting attempt has not been documented by the BLM's authorized officer in consultation with the USFWS. Surface construction may also be initiated on June 1 if a determination by the authorized officer, in consultation with the USFWS, shows the nesting attempt to be nonproductive. This determination may be ascertained by observed behaviors of the nesting pair or by presence or absence of eggs.

D. Coordinate all nest site visitations through the USFWS and/or the BLM's authorized officer to minimize disturbance to nesting activity.

j. Two Cooper's hawk nests have been documented as active by the BLM and the UDWR. A buffer zone shown on map 3 has been established for protection of these nest sites within which the following mitigating measures apply:

A. Coordinate all nest visitations with the USFWS and/or the BLM's authorized officer to minimize disturbance to nesting birds.

B. Prohibit all surface construction activities within the buffer zone during the critical nesting period, April 15 to July 15. Surface construction may be initiated on July 1 if a nesting attempt has not been documented by the BLM's authorized officer in consultation with the USFWS. Surface construction may also be initiated on July 1 if a determination by the BLM's authorized officer in consultation with the USFWS, shows the nesting attempt to be nonproductive. This determination may be ascertained by observed behaviors of the nesting pair or by presence or absence of eggs.

C. Protect all shrubs, trees, or other vegetation along the existing road shoulder (closest to the nest site) within the buffer zone.

Condition No. 13 (817.97-(4)-OSM10)

At least 120 days prior to construction of the portals, a final mitigation plan must be submitted to the regulatory authority which addresses items e, f, g and i listed on page 2 of the May 12, 1983 U.S. Fish and Wildlife Service memorandum, "Review of Concerns - MRP, Sunedco, Sage Point-Dugout Canyon". For reference, these items are listed below:

e) Stipulate that reference plots (or other suitable methods) be maintained in riparian habitats of Dugout Creek downstream from the planned diversion to monitor impacts from diversion of Dugout Creek flows. Require the Company to maintain flows adequate to maintain these riparian habitats.

f) Require the company to replace all lost sources of wildlife water, lost due to mining activity.

g) Require the company to mitigate by replacement and maintenance of lost cavity nest sites at a rate of two nest boxes/cavity lost or impacted (within 50 yards of roads or developments).

i) Identify areas that are vegetated by Hedysarum occidentale var. canone and minimize disturbances if possible.

Condition No. 14 (817.99-(1)-SL)

The applicant shall notify the regulatory authority of any slide or surface failures which may occur during operations.

Condition No. 15 (817.107-(1)-PGL)

A written commitment is needed from the operator that when rills or gullies deeper than nine inches form in areas that have been regraded or topsoiled, the rills and gullies shall be filled, graded or otherwise stabilized according to Section UMC 117.111-.117; or when rills and gullies form of a lesser size they will be stabilized and the area reseeded or replanted if the rills or gullies are disruptive to the approved postmining land-use or may result in additional erosion and sedimentation.

Condition No. 16 (817.121-(1)-TNT/OSM12)

Updated subsidence prevention plans must be provided to the regulatory authority for approval if deviation from forecasts in the MRP are developed. Should any surficial damage or fractures become apparent which may constitute a hazard, subsidence prevention plans must be updated immediately.

Condition No. 17 (817.122-.126-(1)-TNT)

Each owner of property or resident within the area above the underground workings and adjacent area that would be affected by subsidence if it occurred must be notified by mail at least six months prior to mining. The notification shall contain as a minimum:

a. Identification of specific areas in which mining will take place;

b. Dates of underground operations that could cause subsidence and affect specific structures; and

c. Measures to be taken to prevent or control adverse surface effects.

Condition No. 18 (817.150-(1)-SL)

At least 120 days prior to initiation of construction, the applicant must submit to the regulatory authority for approval final detailed designs for all proposed class II roads. Designs must include detailed drawings of road alignment, grades and sizing and location of culverting. Construction shall not begin until final designs are found to be acceptable by the regulatory authority.

Condition No. 19 (OSM14)

The applicant shall comply with all applicable Federal, State and local laws, rules and regulations which impose duties with regard to socioeconomic analyses and/or mitigation plans that are required to be submitted prior to project construction. Such analyses and plans shall be developed and implemented in consultation with affected local governments, the Utah State Department of Community and Economic Development, the Utah State Division of Oil, Gas and Mining, and OSM.

Condition No. 20 (OSM17)

The operator shall submit to the regulatory authority and the SHPO for review and approval, a site-specific mitigation plan for sites 42 Cb172, 173, 196, 135, 185, 188, 186 and 202. When approved, the operator shall implement the mitigation specified in the mitigation proposal. A draft report of the data recovery shall be submitted for review and approval to the regulatory authority and the SHPO no later than 4 months after completion of the data recovery. A final report shall be submitted within 4 months after receiving the comments and recommendations of the regulatory authority and the SHPO which incorporates these comments and recommendations. No surface disturbance activites related to mining will take place within 100 feet of these sites until mitigation and the resulting report has been approved.

U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
NOTICE OF A DECISION AND AVAILABILITY
OF BOTH A TECHNICAL ANALYSIS AND AN
ENVIRONMENTAL ASSESSMENT FOR
SUNOCO ENERGY DEVELOPMENT COMPANY
PERMANENT PROGRAM PERMIT
SAGE POINT - DUGOUT CANYON
CARBON COUNTY, UTAH

The United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement (OSM), has approved, with conditions, a 5-year permit for Sunoco Energy Development Company to mine coal at its Sage Point - Dugout Canyon mine.

The Sage Point - Dugout Canyon mine surface coal mine is located in Carbon County, Utah, about 15 miles northeast of the town of Price. The proposed permit area will cover approximately 4,475 acres. Maximum mine production is at a rate of 1.2 million tons of coal during the fifth year of mining.

Any person with an interest which is or may be adversely affected by this Federal permit approval action may request an adjudicatory hearing on the final decision within 30 days after publication of this notice, in accordance with Section 514(c) of the Surface Mining Control and Reclamation Act (SMCRA). Any hearing will be governed by provisions of 5 U.S.C. Section 554. A petition for review of the OSM decision should be submitted to:

Hearings Division
Office of Hearings and Appeals
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, Virginia 22203

Pursuant to 40 C.F.R. Sections 1501.4(c) and 1506.6, notice is hereby given that the Utah Division of Oil, Gas and Mining has completed a technical analysis (TA) for the mining plan for the Sage Point - Dugout Canyon mine, Carbon County, Utah. OSM has supplemented this TA with its own environmental assessment (EA). OSM's recommendation to approve Sunoco Energy Development Company mining plan and the permit application with conditions is in accordance with Sections 510 and 523 of SMCRA. OSM's analysis is that no significant environmental impacts would result from such approval. For information or clarification concerning the approval of the Sage Point - Dugout Canyon mine plan, please contact Shirley Lindsay or Walter Swain at (303) 837-3806, Office of Surface Mining, Denver, Colorado.

Both the TA and the EA are available for public review at the following locations:

Office of Surface Mining Reclamation and Enforcement
Western Technical Center
1020 15th Street
Denver, Colorado 80202

Office of Surface Mining Reclamation and Enforcement
Albuquerque Field Office
219 Central Avenue NW
Albuquerque, NM 87102

Utah Division of Oil, Gas, and Mining
4241 State Office Building
Salt Lake City, UT 84114