0012

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

March 20, 1987

Mr. Paul Schank
U. S. Fuel Company
Hiawatha, Utah 84527

FILE COPY

Dear Mr. Schank:

Re: Five Year Permit, Hiawatha Mines Complex, ACT/007/011, Folder No. 2 and 3, Carbon County, Utah

Attached is the state's Five Year Permanent Program Mining Permit for the Hiawatha Mines Complex, with conditions. A separate permit will be issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE). Two original copies of the permit are enclosed. Please sign one and return it to the Division. You may keep the other for your records.

The Division and OSMRE have accepted the $2,329,000 self bond, which makes up 62 percent of the total required reclamation surety. The Division will not allow any greater percentage of the total requirement to be in a self bond at this time. The Division is currently reviewing self bonding requirements. You will be notified of any proposed changes in regulations or policy.

Please note that most of the permit conditions have due dates based on the date of permit issuance, March 13, 1987. You may submit all copies of your responses to the Division. We will distribute to all other state and federal agencies.

Please contact Lowell Braxton or Susan Linner if you have any questions.

Best regards,

Dianne R. Nielson

Dianne R. Nielson
Director

SCL:jvb
Attachments
cc: A. Klein
L. Braxton
B Team
0028R-35

FEDERAL
(January 1987)

Permit Number ACT/007/011, March 13, 1987

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
(801) 538-5340

This permit, ACT/007/011, which incorporates the Office of Surface Mining Reclamation and Enforcement (OSMRE) Permit UT-0006, is issued for the state of Utah by the Utah Division of Oil, Gas and Mining (DOGM) to:

U. S. Fuel Company
Hiawatha, Utah 84527
(801) 343-2471

for the Hiawatha Mines Complex. U. S. Fuel Company is the lessee of federal coal leases SL-025431, SL-069985, U-058261 and U-026583. Most of the remainder of the coal in the life of mine area is owned by U. S. Fuel Company. A performance bond is filed with the DOGM in the amount of $3,779,000.00, of which $1,450,000 is a surety bond and $2,329,000 is a self bond, payable to the state of Utah, Division of Oil, Gas and Mining and OSMRE. DOGM must receive a copy of this permit signed and dated by the permittee.

Sec. 1 STATUTES AND REGULATIONS - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979 , Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.

Sec. 2 PERMIT AREA - The permittee is authorized to conduct surface coal mining and reclamation operations on the following described lands (as shown on the map appended as Attachment B) within the permit area at the Hiawatha Mines Complex situated in the state of Utah, Carbon and Emery Counties, and located:

T. 15 S., R. 7 E., SLM, Secs. 13, 24, 25, 36;
T. 15 S., R. 8 E., SLM, Secs. 17-21, 26-35;
T. 16 S., R. 8 E., SLM, Secs. 3-6, 8, 9;

as shown on Attachment B.

The designated permit area described above excludes 55 acres for the town of Hiawatha in:

T. 15 S., R. 8 E., SLM Secs. 27, 34; as shown on Attachment B.

This legal description is for the permit area (as shown on Attachment B) of the Hiawatha Mines Complex. The permittee is authorized 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 OSMRE permit UT-0006, including all conditions and all other applicable conditions, laws and regulations.

Sec. 3 PERMIT TERM - This permit expires on March 14, 1992.

Sec. 4 ASSIGNMENT OF PERMIT RIGHTS - The permit rights may not be transferred, assigned or sold without the approval of the Director, DOGM. Transfer, assignment or sale of permit rights must be done in accordance with applicable regulations, including but not limited to 30 CFR 740.13(e) and UMC 788.17-.19.

Sec. 5 RIGHT OF ENTRY - The permittee shall allow the authorized representative of the DOGM, including but not limited to inspectors, and representatives of the OSMRE, 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, UMC 840.12, 30 CFR 842.13 and UMC 842.13; and

B. be accompanied by private persons for the purpose of conducting an inspection in accordance with UMC 842.12 and 30 CFR 842, when the inspection is in response to an alleged violation reported by the private person.

Sec. 6 SCOPE OF OPERATIONS - 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 and reclamation plan and permit application and approved for the term of the permit and which are subject to the performance bond.

Sec. 7 ENVIRONMENTAL IMPACTS - The permittee shall minimize any adverse impact to the environment or public health and safety through 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 DISPOSAL OF POLLUTANTS - The permittee shall dispose of solids, sludge, filter backwash or pollutants 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 CONDUCT OF OPERATIONS - The permittee 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 DOGM and OSMRE 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 AUTHORIZED AGENT - 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 COMPLIANCE WITH OTHER LAWS - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq,) and the Clean Air Act (42 USC 7401 et seq), UCA 26-11-1 et seq, and UCA 26-13-1 et seq.

Sec. 12 PERMIT RENEWAL - 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 CULTURAL RESOURCES - If during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify DOGM. DOGM, after coordination with OSMRE, shall inform the permittee of necessary actions required. The permittee shall implement the mitigation measures required by DOGM within the time frame specified by DOGM.

Sec. 14 APPEALS - The permittee shall have the right to appeal as provided for under UMC 787.

Sec. 15 SPECIAL CONDITIONS - In addition to the general obligations and of performance set out in the leases, OSMRE permit UT-0006 and this permit, the permittee shall comply with the special conditions of OSMRE permit UT-0006 and the conditions appended hereto as Attachment A.

The above conditions (Secs. 1-15) 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 DOGM and the permittee at any time to adjust to changed conditions or to correct an oversight. DOGM 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 STATE OF UTAH

By: Dianne R. Nielson

Date: 3-13-87

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

_____
Authorized Representative of
the Permittee

Date: _____

APPROVED AS TO FORM:

By: Barbara W. Roberts
Assistant Attorney General

Date: 3-25-87

Attachment A

Condition No. 1

Prior to the initiation of any ground disturbance activities, the permittee shall contact OSMRE, Utah DOGM and SHPO concerning the need for a cultural resources inventory of the impact area. If an inventory is required, the operator shall ensure that all cultural resources are properly evaluated in terms of National Register of Historic Places eligibility criteria. Where a significant site will be affected by mining, the permittee will consult with OSMRE, Utah DOGM, and the SHPO to develop and implement appropriate impact mitigation measures according to a mutually agreed upon schedule.

Condition No. 2

Within sixty (60) days of the effective date of this permit, the permittee must submit a revised surface-water monitoring program to include alkalinity, dissolved iron, and oil and grease. Streams will be monitored monthly during the period of April through October in accordance with Utah DOGM's abbreviated sampling analytical schedule. Measurements of turbidity may be substituted for the measurement of total suspended solids following the development of an adequate site-specific relationship between the two parameters. Twice per year, the full suite of water-quality parameters will be analyzed using the comprehensive analytical schedule developed by Utah DOGM.

Condition No. 3

Within sixty (60) days of the effective date of this permit, the permittee must submit to the RA a revised plan demonstrating adequate runoff storage for Slurry Pond 5A. Slurry Pond 5A is not to be used to contain runoff from the undisturbed areas flowing through culverts Nos. 2 and 12 until a revised plan is submitted and approved by the regulatory authority.

Condition No. 4

Within sixty (60) days of the effective date of this permit, the permittee must submit to the RA a plan for a physical inspection of each seal impounding the underground reservoir and a contingency plan if inspections identify a possibility of failure. Starting in September 1987, each curved bulkhead must be inspected at least annually using the following as a minimum:

1) Photo monitor each curved bulkhead abutment using permanent picture points and camera mounts.

Condition No. 10

The permittee must, by July 1, 1987, submit the necessary data collected during 1985, that reevaluates the cover value for all vegetation reference areas. Discussions evaluating the new data and how it relates to the vegetation type must also be provided.

Condition No. 11

As a condition of the U. S. Fish and Wildlife Service's Windy Gap analysis for impacts to threatened and endangered species, the permittee must implement within thirty (30) days of the effective date of this permit the mitigation measures identified in the USFWS letter dated August 13, 1984, and submit proof of such compliance to the regulatory authority.

Condition No. 12

Prior to initiating soil salvage activities in Area D borrow area or developing the existing access road through the adjacent riparian zone, the permittee shall consult with the regulatory authority to determine whether any design changes are required due to changes in the condition of the stream crossing. At such time, at a minimum, the disturbance to established riparian vegetation, topsoil salvage, the need for temporary culverts, and spillage into the perennial stream shall be considered.

Condition No. 13

The permittee shall comply with all terms of the Reclamation Fee Installment Agreement entered into on November 11, 1985, by and between U.S. Fuel Company and OSMRE, U.S. Department of the Interior. OSMRE may immediately suspend or revoke the permittee's permit or right to mine if the U.S. Fuel Company fails to comply with any of the terms of the agreement.

Condition No. 14

The applicant shall commit, within 30 days of permit approval, to restoring areas impacted by subsidence-caused surface cracks or other subsidence features such as escarpments (not to include naturally occurring escarpments which are not a result of mining) which are of a size or nature that could, in the Division's determination, either injure or kill grazing livestock or wildlife. Restoration shall include recontouring of the affected land surface including measures to prevent rilling, and revegetation in accordance with the approved permanent revegetation plan in the MPR. Restoration shall be undertaken after annual subsidence survey data indicate that the surfaced has stabilized, but in all cases restoration and revegetation shall be completed prior to bond release.

Condition No. 15

The applicant shall commit, within 30 days of permit approval, to compensate surface owners (except for land owned by the applicant) for lands which cannot be safely grazed due to hazards caused by surface effects of subsidence, with land (in close proximity) of comparable size and grazing capacity to be used for grazing until restoration of the damaged land is achieved.

Condition No. 16

The applicant shall commit, within 30 days of permit approval, to compensate, at a fair market value, owners of livestock which are injured or killed as a direct result of surface hazards caused by subsidence.

Condition No. 17

The permittee shall replace any water demonstrated to have been lost or adversely affected by mining operations with water from an alternate source in sufficient quantity and quality to maintain the current and postmining land use. The permittee will advise the regulatory authority of the loss or adverse occurrence within two working days of becoming aware that it has occurred, and within 14 days of notification shall submit to the regulatory authority for approval a plan to replace the affected water. Upon acceptance of the plan by the regulatory authority, the plan shall be implemented in the time-frame dictated by the regulatory authority's approval notification.

Condition No. 18

Existing raptor nests adversely affected by mine related subsidence shall be replaced or otherwise mitigated by the permittee in consultation with the U.S. Fish and Wildlife Service and the Utah Division of Wildlife Resources according to the requirements of UMC 784.21 and UMC 817.97. Notification of the loss to the above-named agencies and the regulatory authority shall take place within two working days of the permittee becoming aware that the loss has occurred.

Condition No. 19

At least 60 days prior to beginning second seam mining inside a perennial stream buffer zone as defined by a 20 degree angle of draw from vertical, measured from the limit of mining in the lowest seam to the center of the stream channel, the permittee shall present a detailed evaluation of the anticipated effects of multiple seam mining on perennial streams to the regulatory authority for review and approval as required by UMC 817.126(a). This evaluation must be based upon subsidence monitoring information collected on multiple seam mining in areas with similar overburden depth and surface topography.

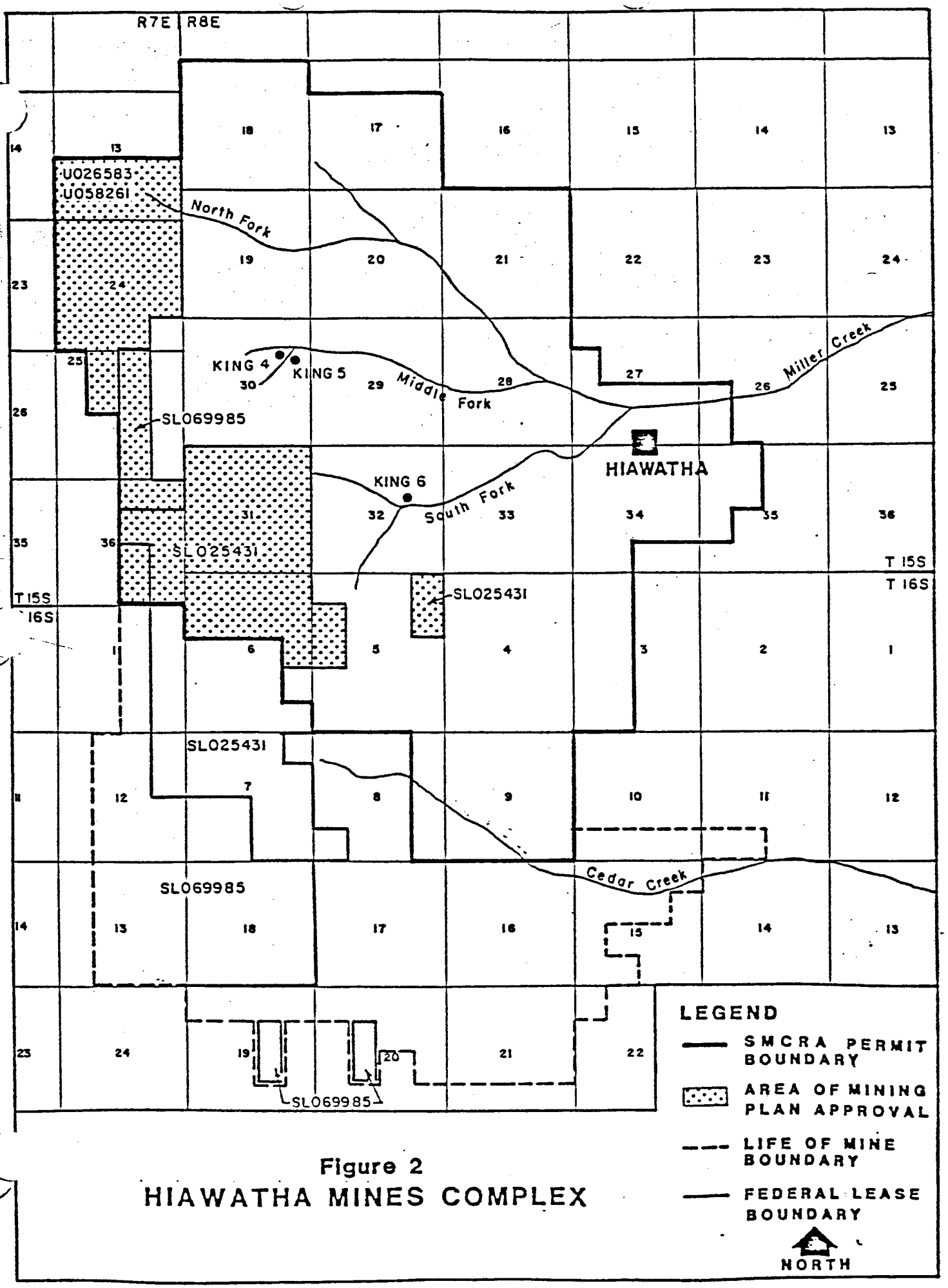
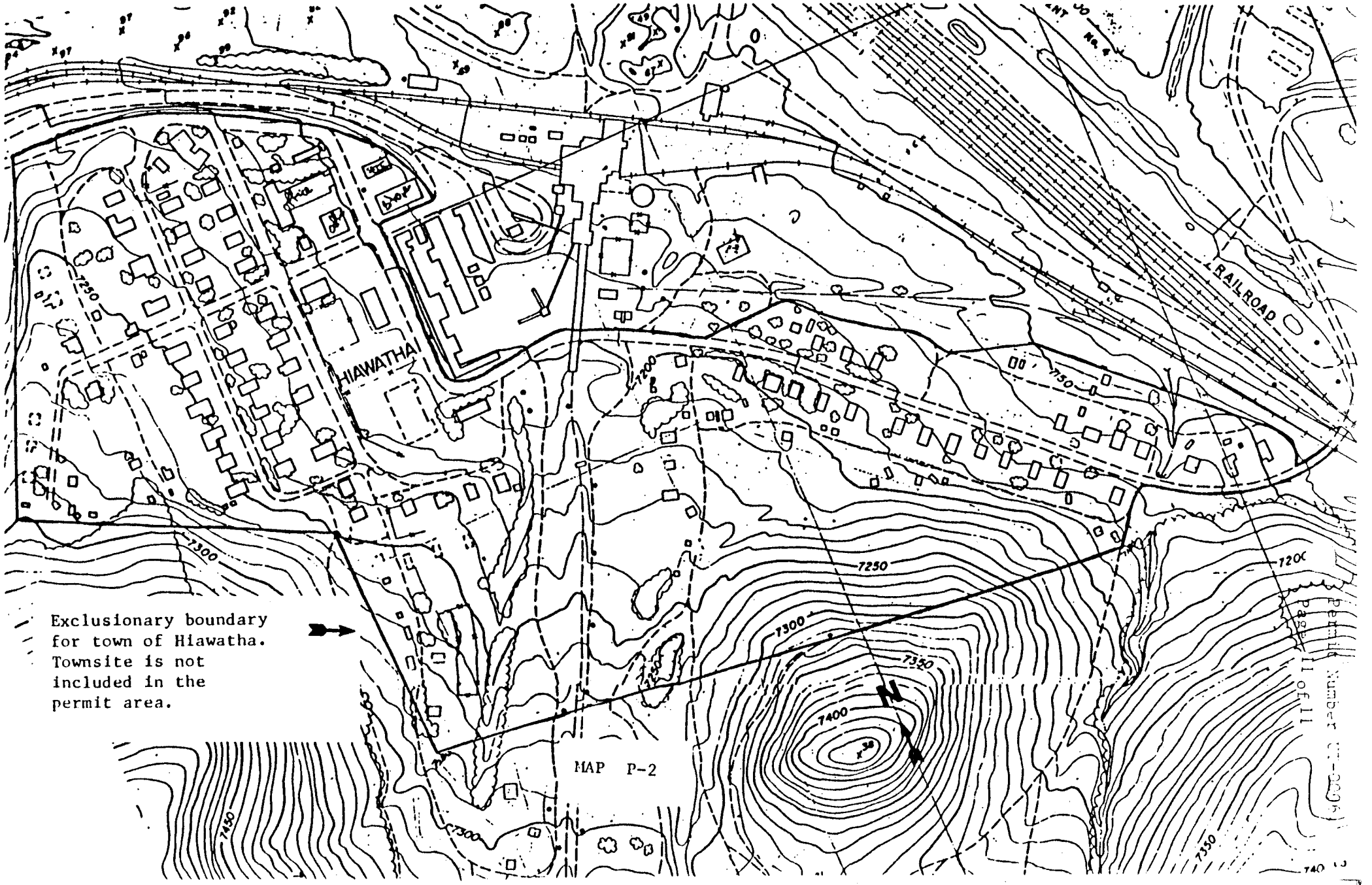


Figure 2
HIAWATHA MINES COMPLEX



Exclusionary boundary for town of Hiawatha. Townsite is not included in the permit area.

MAP P-2