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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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September 22, 1997

TO: File

THRU: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist

RE: Permit Transfer Application, U. S. Fuel Company, Hiawatha Complex, ACT/007/011-97C, Folder #2, Carbon County, Utah

SUMMARY

Hiawatha Coal Company has submitted an application for the permit for the Hiawatha Mines to be transferred from U. S. Fuel Company to Hiawatha Coal Company. The application is only in the form of a permit transfer application and does not contain updates for the mining and reclamation plan. If the application is approved, the general contents section of the mining and reclamation plan will need to be updated.

The application does not include a signed, notarized statement from an official either of U. S. Fuel Company or Hiawatha Coal Company saying the information in the application is true and correct to the best of the official's information and belief. For this reason, the application should be rejected.

There are other problems with the application. According to the Bureau of Land Management, they have not received an application to transfer or sublease any of the federal leases, so it does not appear Hiawatha Coal Company has right of entry for these areas. In addition, the application does not include a certificate of insurance for Hiawatha Coal Company.

ADMINISTRATIVE FINDINGS

IDENTIFICATION OF INTERESTS

Regulatory Reference: R645-301-112

Analysis:

The applicant is Hiawatha Coal Company, a Utah corporation. According to information received by telephone from the Utah Department of Commerce, Hiawatha Coal Co., Inc., was registered to conduct business in Utah June 30, 1997, and is currently in good standing. The application shows Hiawatha Coal Company's address but not its telephone number or employer identification number. This information needs to be included in the application. The resident agent is Elliot Finley, and Hiawatha Coal Company will be responsible for payment of Abandoned Mine Land Reclamation fees.

The application shows the names, Social Security Numbers, addresses, telephone numbers, and dates offices were assumed of the corporation's president, vice-president, and secretary/treasurer. Elliot Finley and Charles Reynolds are authorized to act on behalf of Hiawatha Coal Company.

None of these persons, including Hiawatha Coal Company, own or control other coal mining and reclamation operations, and there are no other affiliated coal mining and reclamation operations.

Land ownership information is in the existing mining and reclamation plan on Exhibits IV-1 and IV-2 and in Appendix I-1. According to information in the right of entry section, the land formerly owned by U. S. Fuel has now been acquired by ANR. Exhibits IV-1 and IV-2 should be updated with this information. In addition, it is difficult to understand some of the information on Exhibit IV-2. There are a few large areas within the permit area where this exhibit shows the BLM as the subsurface owner, but it does not appear the land is leased to anyone. This should be clarified.

The application does not show MSHA numbers for structures that require MSHA approval. This information is required by R645-301-112.700. Is in the existing mining and reclamation plan, but the application either needs to refer to the current plan or show the information.

Findings:

Information provided in the application is not considered adequate to meet the

requirements of this section, prior to approval, the applicant must provide the following in accordance with:

R645-301-112.200, The application needs to contain the applicant's telephone number and employer identification number.

R645-301-112.600, Exhibits IV-1 and IV-2 should be updated with the most current land ownership information. According to the application, U. S. Fuel no longer owns surface or coal rights in the permit area. In addition, some information on Exhibit IV-2 should be clarified.

R645-301-112.700, The application is required to show the MSHA numbers for mine-associated structures that require MSHA approval.

VIOLATION INFORMATION

Regulatory Reference: R645-301-113

Analysis:

The application says there has not been any federal or state permit to conduct coal mining and reclamation operation suspended or revoked in the last five years for the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant. For these same entities, there has not been any performance bond or similar security deposited in lieu of bond forfeited in the last five years.

The application indicates regulations R645-301-113.200 through -113.250 and R645-301-113.300 through -350 are not applicable. For R645-301-113.300, it is assumed this means there are no violations where this regulation applies.

Findings:

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

RIGHT OF ENTRY

Regulatory Reference: R645-301-114

Analysis:

The application says the land, coal, and minerals in the permit area were acquired by ANR, Inc., from U. S. Fuel Company or are leased from the U. S. Government. These are leased from ANR, Inc., to Hiawatha Coal Company. The application contains a letter from ANR saying all of the property in the permit area owned by ANR, Inc., is leased to Hiawatha Coal Company, Inc. The lease permits Hiawatha Coal Company to use the land for coal mining and related activities.

The letter attached to the transfer application is signed, "by: D. O. Kingston its: President." D. O. Kingston is not identified as an officer or director of ANR in the ownership and control information in the mining and reclamation plan. This information was just updated with amendment 97B submitted August 18, 1997, and approved September 11, 1997.

According to information received by telephone from Chris Merritt of the Bureau of Land Management, any lease transfer or sublease agreement for federal leases must be approved by the BLM. The BLM has not received an application to transfer or sublease the federal leases. Although it appears Hiawatha Coal Company has acquired the right to enter lands owned by ANR, it does not appear they have the right to enter and begin coal mining and reclamation operations in the federal lease areas.

Findings:

Information provided in the permit transfer application is not considered adequate to meet the requirements of this section. Prior to approval, the applicant must provide the following in accordance with:

R645-301-114, The applicant must obtain the right to enter and begin coal mining and reclamation operations in the federal coal lease areas.

UNSUITABILITY CLAIMS, PERMIT TERM

Regulatory Reference: R645-301-115, R645-301-116

Analysis:

The status of unsuitability issues would not change with this transfer. The permit term should also not change; the transfer application does not request a change in the permit term.

Findings:

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

INSURANCE, PROOF OF PUBLICATION, NOTARIZED SIGNATURE

Regulatory References: R645-301-117; R645-301-123

Analysis:

The application says U. S. Fuel Company's insurance certificate is filed with the Division and that the certificate of liability insurance for Hiawatha Coal Company will be provided prior to transfer of the permit. Hiawatha Coal Company must provide a certificate of liability insurance that meets the requirements of R645-301-800.

The application includes a copy of a proposed newspaper advertisement. The legal description in this proposed advertisement appears to correspond with the permit area shown on Exhibit 2 in the mining and reclamation plan. All other required information is present.

The application does not contain the notarized signature of a responsible official of Hiawatha Coal Company, ANR, or U. S. Fuel Company indicating the information in the application is true and correct to the best of the official's information and belief. For permit transfer applications, the Division requires statements from both the existing and proposed permittees.

Findings:

Information provided in the permit transfer application is not considered adequate to meet the requirements of this section. Prior to approval, the applicant must provide the following in accordance with:

R645-301-117, Hiawatha Coal Company must submit a certificate of insurance that will meet the requirements of R645-301-800.

R645-301-123, The application for permit transfer must be accompanied by a statement with the notarized signature of the applicant that the information in the application is true and correct to the best of the official's information and belief. For a permit transfer application, the Division requires this statement and signature for both the existing and proposed permittee.

RECOMMENDATIONS:

The application should be rejected because it does not include the statements and signatures required by R645-301-123. There are other problems, such as lack of right of entry and a certificate of insurance, that should be corrected before the application is resubmitted.

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