

*C/007/0110K  
Outgoing*

BEFORE THE DIVISION OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

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IN THE MATTER OF THE PERMIT	:	INFORMAL CONFERENCE
RENEWAL FOR HIAWATHA COAL	:	FINDINGS, CONCLUSIONS
COMPANY'S, HIAWATHA COAL	:	AND ORDER
MINE C/007/011,	:	CAUSE NO. C/007/011
CARBON COUNTY, UTAH	:	

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On April 11, 2002, the Division of Oil, Gas and Mining ("Division") held an informal conference concerning the permit renewal for the Hiawatha Coal Company, Hiawatha Coal Mine, C007/001, Carbon County, Utah. The following individuals attended:

- Presiding: Lowell P. Braxton  
Director  
Division of Oil, Gas and Mining
- Petitioner: Craig Smith, Nielsen and Senior for Huntington-Cleveland Irrigation Company "HCIC"
- Applicant: Mark Hansen for Hiawatha Coal Company

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner and Applicant in connection with this informal conference, and on information in the files of the Division.

**FINDINGS OF FACT**

1. By letter dated Feb. 27, 2002, Petitioner, HCIC requested an informal conference to discuss issues of concern relevant to the renewal of the mining and reclamation permit for the Hiawatha Coal Mine, C007/011 "the permit".
2. Notice of the informal conference was properly given.

3. Pursuant to Utah Code Ann. Section 40-10-13 and Utah Administrative Rule R645-300-123, an informal conference in the matter was held on, April 11, 2002, and a transcript of the informal conference was made. At the informal conference, Mr. Smith referenced sections of the permit, including the Cumulative Hydrologic Impact Assessment (the CHIA), and the Probable Hydrologic Consequences Document (the PHC), suggesting that these documents need to be updated in order to recognize the current (inactive) operational status of the mine, and the expanded (since the permit was originally issued) geologic understanding of how water enters this mine. Mr Smith was interested in statements in the current permit that describe water inflows to the mine during operational, suspended operations and final closure phases, depths to groundwater, flow data from the Mohrland portal, evaporative water losses as a function of mine ventilation, the relationship between the Bear Canyon fault as encountered in the mine and flows from Big Bear Spring, water discharges to Huntington Creek as a percentage of the Huntington Creek flow regime. Mr. Smith also indicated that the number of UPDES discharge points on file with the Department of Environmental Quality (Division of Water Pollution Control) did not comport with those listed in the permit. He also voiced a concern over Hiawatha Coal Company's untimely filing of UPDES reports.

Additional discussion on the record included interest in how calculations of outflow at the Mohrland portal are made, and if it is possible for other parties to observe reading of the weirs that document outflow. (This specific matter is not related to the Hiawatha Coal Mining and Reclamation Permit).

4. The CHIA is an assessment provided by the Division of the probable cumulative hydrologic impacts of a proposed coal mining and reclamation operation, and all anticipated coal mining and reclamation operations upon surface and ground-water systems in the cumulative hydrologic impact area. The CHIA must be sufficient to determine for purposes of permit approval whether a coal mining and reclamation operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

5. The Gentry Mountain CHIA includes the “permit area” and “adjacent area” of the Hiawatha Mine.
6. The Division updated the Gentry Mountain CHIA June 21, 2001 to accommodate changes made to the Bear Canyon Mining and Reclamation Plan.
7. The Division’s regulations contain language that anticipates monitoring of impoundments (R645-301-731.222.1) and for determining the size and performance of sedimentation ponds, (R645-301-733), including the discharge portions thereto.
8. The action triggering the request for an informal conference was renewal of the Hiawatha Coal Mine mining and reclamation plan.
9. Under R 646-303-231, Hiawatha Coal Company has a right of successive renewal to a valid permit within the boundaries of the approved permit, upon the expiration of the term of the permit.
10. Under R 645-303-233.200 opponents to the renewal bear the burden of proof in establishing a permit should not be renewed.

### **CONCLUSIONS OF LAW**

1. HCIC did not present evidence supporting Hiawatha Coal Company’s inability to conduct coal mining and reclamation operations in the manner prescribed by Utah law.
2. HCIC did establish that The Hiawatha Coal Company permit contains language pertaining to hydrology and related factors that do not reflect the current operational state for this mine, and may not reflect currently accepted geologic and hydrologic knowledge for the mine.

3. HCIC did establish that Hiawatha Coal Company has been untimely in submitting the UPDES monitoring reports to the appropriate regulatory authorities.
4. The Division has authority under R 645-303-232.250 to ask for updated and additional information relevant to a permit at the time of permit renewal.

### **ORDER**

NOW THEREFORE, it is ordered that:

1. The mining and reclamation permit for Hiawatha Coal Company, C 007/011 shall be renewed as contemplated by Utah law with the following conditions:  
Hiawatha Coal Company and the Utah Coal Regulatory program shall commence a process that will produce an approved, amended permit including the Probable Hydrologic Consequences document, CHIA, Chapter 7, and other relevant parts of the permit, on or before 120 days following the date of this order. The amendments shall reflect changes in the anticipated water inflows to the Hiawatha mine resulting from its current activity status, its proposed status as an active coal mine, and its final reclamation status. The amendments shall incorporate changes in geologic and hydrologic information germane to this operation that have been established between the time of original permit issuance to the present, including but not limited to location and extent of groundwater, groundwater flow direction, and depths to groundwater (where known), and if relevant data exist, the relationship between the Bear Canyon Fault as encountered in the mine, and Big Bear Spring. The amended permit shall identify the currently approved UPDES monitoring points for this mine, and reference the current frequency for sampling and reporting, and identify the recipients of UPDES monitoring reports. The amended permit shall accurately reflect all surface and groundwater monitoring points that are the responsibility of the current permittee under the R 654 regulations, and present a basis for any decrease or increase in numbers of monitoring points since original permit issuance. Given changes already made in the CHIA that were not discussed at the conference, the Division shall use its discretion in determining what changes

need be made to that document and other parts of the permit to comply with this order. When the PHC and CHIA have been finalized, the Division will provide a copy of the new documents to HCIC.

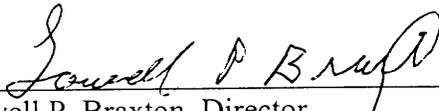
2. In addition to the above permit condition, the following activities are ordered:

- I Within 30 days of this order the Division shall prepare a Palmer Drought Hydrologic Index analysis of Big Bear Spring, utilizing the data in the Division's water monitoring data base.
- II Within 40 days of this order, the Division shall prepare a report analyzing the trends established in the Palmer Drought Hydrologic Index, and shall provide a copy of the index and report to HCIC.
- III Within 60 days of this order, the Division will develop for internal use an electronic training protocol that summarizes the desired outcomes of the MOU between the Division of Oil, Gas and Mining and DEQ's Division of Water Pollution Control. Appropriate staff from the Division of Oil, Gas and Mining will take this training, and DEQ's DWPC staff are also encouraged to utilize this resource.

## Other Considerations

Shared scientific data reduces data collection costs for all parties. HCIC is encouraged to begin a dialogue with the Division's Coal Regulatory Program oriented towards putting appropriate monitoring data currently held exclusively by HCIC into the Division's water monitoring data base.

SO DETERMINED AND ORDERED this 1st day of May, 2002

  
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Lowell P. Braxton, Director  
Division of Oil, Gas and Mining  
State of Utah

## CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF INFORMAL CONFERENCE FINDING, CONCLUSIONS AND ORDER for Cause No. C/007/011 to be mailed by certified mail, postage prepaid, on the 1<sup>st</sup> day of May 2002 the following:

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