

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

OK

December 14, 2004

TO: Internal File

FROM:  Joseph C. Helfrich, Biologist, Team Lead

RE: Midterm Permit Review, Hiawatha Coal Company, Hiawatha Mine, C/007/0011, Task ID #2066

SUMMARY:

By way of correspondence dated November 18, 2004 Hiawatha Coal Company was notified of the Division's intent to complete the required Midterm review for the Hiawatha mine. Items for review included the following:

1. *An AVS check to ensure that Ownership and Control information is current and correct.*
2. *A review to ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program, which have occurred subsequent to permit approval (One area of emphasis is to ensure compliance with the U. S. Fish and Wildlife Windy Gap Process).*
3. *A review of the plan to ensure that the requirements of all permit conditions, division orders, notice of violation abatement plans, and permittee initiated plan changes are appropriately incorporated into the plan document.*
4. *A review of the applicable portions of the permit to ensure that the plan contains commitments for application of the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flows outside of the permit area.*
5. *A review of the bond to ensure that it is in order and that the cost estimate is accurate and is escalated to the appropriate year dollars.*

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6. *A review of the MRP commitments for the subsidence control/monitoring plans and reporting requirements.*
7. *The Division may conduct a technical site visit in conjunction with the assigned compliance inspector to document the status and effectiveness of operational, reclamation, and contemporaneous reclamation practices.*

This memo will include a review of items 1, 2, and 3.

1. *An AVS check to ensure that Ownership and Control information is current and correct.*

IDENTIFICATION OF INTERESTS^[sm:]1]

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

The ownership and control information is provided for in chapter one of the mining and reclamation plan. Hiawatha Coal Co. Inc. is a corporation incorporated in good standing in the state of Utah. The name and address of each officer, principal, principal shareholder and director are included in section 112.310 of chapter one.

Findings:

The ownership and control information provided for in chapter one of the mining and reclamation plan is current with the information in the Applicant Violator System, (AVS).

2. *A review to ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program, which have occurred subsequent to permit approval (One area of emphasis is to ensure compliance with the U. S. Fish and Wildlife Windy Gap Process).*

PERMIT APPLICATION FORMAT AND CONTENTS

Regulatory Reference: 30 CFR 777.11; R645-301-120.

Analysis:

Volume one of the mining and reclamation plan contains a plan update register. This register is located at the beginning of chapter one and provides a current listing of the changes and updates to the MRP.

Findings:

As of the date of this review the register is up to date. The mine plan changes have been correctly incorporated into the MRP.

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Endangered and Threatened Species^[sm:2]

The Windy Gap process addresses impacts from mining to endangered and threatened fish species in watersheds comprising the Colorado River drainage system. Should water consumption from mining activities exceed 100 acre/feet per year, a one-time fee of \$15 per each acre/foot in excess is assessed to the mining company for mitigation. The Hiawatha mine is currently inactive, the portals are sealed and there are no ongoing activities other than an occasional loading of slurry fines on to a railroad car.

Findings:

The Hiawatha mine in its current status is not creating depletion in the water supply to the Colorado River drainage system.

3. A review of the plan to ensure that the requirements of all permit conditions, division orders, notice of violation abatement plans, and permittee initiated plan changes are appropriately incorporated into the plan document.

VIOLATION INFORMATION^[sm:3]

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

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Analysis:

The violation information is included in section R645-301-113 of chapter one of the mining and reclamation plan.

Findings:

Neither the permittee nor any of its affiliates have any outstanding notices of violation.

PERMIT TERM_[sm:]4]

Regulatory References: 30 CFR 778.17; R645-301-116.

Analysis:

The DOGM permit was issued on March 14, 2002 and expires on March 14, 2007.

Findings:

There are no division orders or permit conditions currently associated with this permit.

RECOMMENDATIONS:

The MRP contains adequate information to address the three items chosen for review in this memo.