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C/007/011 Incoming



United States Department of the Interior

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OFFICE OF SURFACE MINING
Reclamation and Enforcement
P. O. Box 46667
Denver, Colorado 80201-6667

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OAS & MINING

IN REPLY REFER TO:

January 7, 2009

John R. Baza, P.E., Director
Department of Natural Resources
Division of Oil, Gas, and Mining
1594 West North Temple
Suite 1210, PO Box 145801
Salt Lake City, UT 84114-5801

RE: Hiawatha Mine Complex, Utah Permit No. C/007/011,
Phase I Bond Release Application

Dear Mr. Baza:

This letter acknowledges the Office of Surface Mining's (OSM) receipt and review of the above Phase I Bond Release State Decision Document (decision) dated January 6, 2009. That decision includes the October 8, 2008 inspection report and technical analysis prepared by the Division of Oil, Gas, and Mining (DOGM). OSM's Denver Field Division (DFD) agrees with the findings in the decision document and hereby provides OSM concurrence for this bond release action in accordance with 30 CFR 740.15 (d) (3), and 30 CFR 944.30, Article IX, of the State-Federal Cooperative Agreement.

Hiawatha Coal Company originally submitted an application for Phase I bond release on January 11, 2008. DOGM returned the application as being deficient and the permittee reapplied for bond release on July 21, 2008. DOGM again returned the application as being deficient and the permittee resubmitted the application on August 19, 2008. DOGM determined that application to be complete on September 8, 2008. The application requested bond release for 95.9 acres of fee/ private property land (there is no Federal property involved in the bond release).

Public and landowner notifications of the bond release application were provided to OSM by DOGM. The bond release inspection notifications, DOGM's inspection findings for the bond release inspection, and related correspondence are documented in the decision document. DOGM sent an invitation letter informing interested parties of the bond release inspection on September 15, 2008. Inadvertently, OSM was not notified of or invited to the inspection and therefore did not participate. One attendee from the BLM participated with DOGM and the permittee's designated representative in the bond release inspection that was conducted on October 8, 2008. Since the bond release pertains to fee/private property only, no other federal,

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state, or local government agencies are required to provide a concurrence for this bond release action; and no written comments on this bond release action from the public, governmental agencies, affected surface landowners, or adjacent landowners are discussed by DOGM in their findings or decision document. DOGM's decision demonstrates the applicant's compliance with the Utah approved regulatory program at Rule R645-301-800, Bonding and Insurance. Phase I bond release criteria found in the above regulatory provision(s) have been met or exceeded by the permittee.

OSM has reviewed DOGM's state decision document and bond release inspection report, as well as other pertinent documentation including the public notice. Also reviewed were the July 9, 2008 response to DOGM's March 14, 2008 list of deficiencies, the applicant's July 15, 2008 request and application for bond release and the attached list of administrative and bond release requirements, and the detailed listing of all changes to the Mining and Reclamation Plan (MRP) including: Amendment to Update MRP Technical Data and Maps; Removal of Exhibit 7-10 in Chapter 7, Hydrology; Update to Chapter VIII Table of Contents for Bonding and Insurance; Removal of Tables VIII-1 through VIII-11 regarding Reclamation Cost Estimates; the Update of Appendixes VIII-4 and VIII-5 regarding Reclamation Bond Calculation and the 2008 Bond Release; and DOGM's reclamation cost estimate spreadsheet. Phase I bond release is requested for 95.9 acres of land related to Refuse Pile 2, Slurry Ponds 4 and 5, and other lands located near the town of Hiawatha.

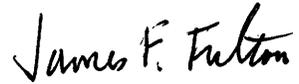
The DOGM inspection report includes analysis of the completed backfilling and grading plan, hydrologic balance protection, and surface water runoff control. The report states that the site is stable with respect to erosion and is not contributing any suspended solids above background levels to surface water runoff outside the permit area. OSM finds that Phase I bond release criteria have been met or exceeded by the permittee on the 95.9 acres proposed for release.

Hiawatha Coal Company has posted bonds in the amount of \$3,005,000.00 for reclamation of this site, and the amount of bond on the Phase I area is \$1,043,369.00. As noted above, this Phase I bond release applies to 95.9 acres of reclaimed disturbance and the permittee requested a release in the amount of \$785,000.00. However, due to the reclamation cost estimate for establishing vegetation, DOGM determined that the maximum amount that can be released at this time is \$564,536.00 and that the remaining \$478,833.00 must be held back to insure vegetation.

OSM concurs with the bond release inspection report, technical findings, and the bond monies proposed for release in the DOGM Phase I bond release decision as documented above.

Thank you and your staff for coordinating this federal lands bond release through the DFD. Please direct any questions concerning this action to Howard Strand, Management/Program Analyst, at hstrand@osmre.gov or to (303) 293-5026.

Sincerely,

A handwritten signature in black ink that reads "James F. Fulton". The signature is written in a cursive style with a large initial "J".

James F. Fulton, Chief
Denver Field Division

cc: Daron Haddock, DOGM
Mark Reynolds, Hiawatha Coal Company