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JON M. HUNTSMAN, JR.  
Governor

GARY R. HERBERT  
Lieutenant Governor

## State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

Outgoing  
C0070011  
#3459  
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January 25, 2010

Elliot Finley, Resident Agent  
Hiawatha Coal Company  
P.O. Box 1240  
Huntington, Utah 84528

Subject: Midterm Permit Review, Hiawatha Coal Company, Hiawatha Mine, C007/0011,  
Task ID #3459

Dear Mr. Finley:

The Division has reviewed the response letter dated December 14, 2009 from Hiawatha Coal Company regarding the midterm deficiency letter issued on October 21, 2009.

Please note that there are still some deficiencies that remain outstanding and must be addressed as part of the midterm review in order for the MRP to comply with the R645 Coal Mining Rules. Those deficiencies are listed as an attachment to this letter. Please respond to these deficiencies by no later than February 22, 2010.

Each deficiency identifies its author by that author's initials in parentheses, such that your staff can directly communicate with that individual should any questions arise relative to the preparation of Hiawatha Mine's response to that particular deficiency. If you have any questions please call me at (801) 538-5325 or April Abate at (801) 538-5214.

Sincerely,

James D. Smith  
Permit Supervisor

JS/AAA/sqs  
Attachment  
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**Deficiency List**  
**Task No. 3459**  
**Task Name: Midterm Review**

The members of the review team include the following individuals:

April A. Abate (AAA)  
Priscilla W. Burton (PWB)  
Joe C. Helfrich (JCH)  
Peter H. Hess (PHH)

**[R645-301-112.300, R645-301-114.100,  
R645-301-121.100, R645-301-112.500 and R645-301-112.600].**

***Division Response:*** The above regulations pertain to Ownership & Control updates to the MRP that HCC was asked to address in the October 21, 2009 deficiency letter. HCC refers to task 3084 for their responses and asks us to update our records accordingly. One year ago, task 3084 was returned/denied with the same deficiencies identified in the denial letter. Therefore, we cannot update our records with the Task 3084 information. HCC must provide the information in the format that we require (revision of pages in MRP). The Task #3084 denial letter is attached for reference.

**[R645-301.331]:** Chapter 3, Paragraph 1 of the interim reclamation plan on page 3-23 of the MRP states that "An effort is made to consolidate all disturbed area operations at protected locations and to reclaim and revegetate those areas no longer needed for present operations" The permittee needs to provide the Division with a written report documenting the current status of this commitment. (JCH)

***Division Response:*** The Permittee has provided the Division with an update of the current status of present operations. However the MRP only includes present operations. If the Permittee has plans for *future* mining activities in areas that are presently not being used to facilitate the current mining operations, which is presumably the case according to Mr. Reynolds, the MRP should be revised accordingly.

On a separate note, the Division received the HCC 2008 annual report on December 24, 2009. The report needs to include the annual raptor survey.

**[R645.301.528.330] and [R645.301.528.332 & 334]:** The definition of noncoal waste includes abandoned mining machinery. ***Exhibits V-5, V-6 and V-7 need to be updated to show the current waste storage conditions.*** Non-coal waste areas should either be redesignated on the maps, or the waste should be relocated to designated noncoal waste storage areas in accordance with R645.301.521.124. Drums contained within the waste oil and grease storage adjacent to the truck maintenance shed appeared to be degraded (i.e. dented, rusted, no lids). These drums should be evaluated for oil and/or hazardous substances and disposed of in a proper manner in accordance with R645.301.528.332 & 334. (AAA)

**Division Response:** The Permittee responded that scrapping operations of old abandoned equipment are ongoing in South and Middle Fork canyons, as the weather allows. The Permittee also addressed that all the drums adjacent to the truck maintenance shed have previously been evaluated for hazardous materials and all hazardous materials were removed from the property and disposed of in 2007. The Permittee did not provide the Division with updated Exhibits V-5, V-6, and V-7. Please provide these Exhibits in your next submittal.

**[R645.301-742.200]:** The reclaimed ventilation portal area no longer requires the silt fencing to support sediment control in that area. The silt fences are recommended for removal. (AAA)

**Division Response:** The Permittee notified the Division that the silt fencing near the reclaimed ventilation portal has been removed. No further action required.

**[R645.301-742.113]:** Additional maintenance is needed in the areas of Slurry Pond #4 on its northeast side where active down cutting has been evident. Ongoing erosion problems were noted where the addition of riprap extending further to the west where the problems begin is needed. Smaller diameter riprap boulders than the ones currently emplaced may be more effective in mitigating the erosion problem.

Deep rilling was noted in an area situated between the Utah Rail right-of-way and the northwest corner of Slurry Pond #4 draining above the culvert into a catch basin above Miller Creek. Additional work appears to be needed to include building up and extending the berm along the catch basin in this area. (AAA)

**Division Response:** The Permittee indicated that corrective action was taken to fix the erosion problem along the north ditch of Slurry Pond #4 one week following the midterm inspection. The Permittee added smaller diameter riprap to the ditch.

The Division acknowledges that the catch basin adjacent to the Utah Railway line is not the property of HCC; however, the problem is with the berm adjacent to the catch basin. In the past, HCC has repaired this berm because of its close proximity to the berm along the northwest side of Slurry Pond #4. The problem has been ongoing for decades and continues to appear because the berm is made up of coal fines. The Permittee needs to be reminded that they have an obligation to prevent to the best extent possible contributions of sediment to the stream flow or to runoff outside of their permit area and retaining sediment within their disturbed areas – this includes coal fines. A follow up inspection of the area is recommended to ensure that coal fines are not migrating off the disturbed area boundary, which will result in a violation in accordance with R645.742.111, 121, 750.

**[R645-301-860]:** Information provided on page 8-77, FORMS OF BOND contains some incorrect information (i.e., the amount of \$ 167,000 an escrow agreement for HCC, and not a U.S. Treasury note). Additionally, the total amount for the bond is outdated and requires correction. (PHH)

***Division Response:*** The Permittee claims that the deficiency was addressed as part of the Chapter 8 Updated amendment under Task #3364; however the information requested was not updated at that time. The \$167,000 security needs to be corrected as a Bank of Utah Security, not a U.S. Treasury Security. Additionally, based on the most up-to-date information the Division has on file, the total bond amount needs to be corrected from 3,005,000 to **2,128,000** (this dollar amount includes the \$167,000 escrow agreement).

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*Outgoing*  
C0070011  
OK

December 11, 2008

Elliot Finley  
Hiawatha Coal Company  
P.O. Box 1240  
Huntington, Utah 84528

Subject: Rejection of Ownership and Control Update, Task ID #3084, Hiawatha Mine, C/007/0011

Dear Mr. Finley:

The Division received your application for the above-noted permit change on November 19, 2008. Pursuant to R645-303-221, the Division completed the Initial Completeness Review (ICR) and denies this application for a technical review on the basis of the following deficiencies:

**R645-301-112.300**, Federal identification numbers are required for each business entity listed: ANR Company Inc. and Hiawatha Coal Company, Inc (HCCI) and the last four digits of each person's social security number listed as officers in ANR Company, Inc. and HCCI. • The application must include the telephone number for ANR Company, Inc. • The application must include the date Colleen Gustafson's position ended as Secretary/Treasurer and the date that Nathaniel Finley began as Secretary/Treasurer of HCCI, accompanied by notarized Secretary signature for the changes in officers. • Current MRP information indicates J.O. Kingston became President and L.A. Miller became Vice President of ANR Company Inc on June 30, 1999. Appendix I-1 contains a document signed by D.O. Kingston, President ANR Company Inc., on December 15, 1997. Please verify the start and end dates for D.O. Kingston, President ANR Company, Inc. and the amended start dates of J.O. Kingston and L.A. Miller with a notarized Secretary signature.

**R645-301-114.100**, Update information in Section 114.100 of the MRP that indicates the Right of Entry sublease from ANR Company expired on July 25, 2007. Identify new Right of Entry by type of document and date of execution and identify the specific lands to which it pertains.

**R645-301-121.100, R645-301-112.500 and R645-301-112.600**, Adjacent ownership information referenced on Surface Ownership (Ex. IV-1) and Subsurface ownership Maps (Ex. IV-2) must be brought up to date and maps must include the Township and Range boundaries.



If you have any questions, please call Priscilla Burton at (435) 613-3773 for further details.

Sincerely,

A handwritten signature in black ink, appearing to read "J.D. Smith". The signature is written in a cursive style with a large initial "J" and "S".

James D. Smith  
Permit Supervisor

PB:sqs  
cc: Price Field Office  
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