

FEDERAL

**PERMIT
C/007/0011**

March 14, 2022

**STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801
(801) 538-5340**

This permit, C/007/0011, is issued for the state of Utah by the Utah Division of Oil, Gas and Mining (DOGM) to:

**Hiawatha Coal Company
P. O. Box 1240
Huntington, Utah 84528
(435) 636-0069**

for the Hiawatha Mine. Hiawatha Coal Company is the permit holder and responsible party for this Coal Mining and Reclamation Permit. Reclamation Surety in the form of Treasury Notes is filed with the DOGM in the amount of \$1,940,000, payable to the state of Utah, Division of Oil, Gas and Mining and the Office of Surface Mining Reclamation and Enforcement (OSMRE). DOGM must receive a copy of this permit signed and dated by the permittee.

Sec. 1 STATUTES AND REGULATIONS - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.

Sec. 2 PERMIT AREA - The permittee is authorized to conduct coal mining and reclamation operations, subject to all permit conditions and lease terms on the following described lands (as shown on the map appended as Attachment B) within the permit area at the Hiawatha Mines Complex situated in the state of Utah, Carbon and Emery Counties, and located:

Township 15 South, Range 7 East, SLM

- Sec. 13: S1/2;
- Sec. 24: All;
- Sec. 25: E1/2, E1/2NW1/4;
- Sec. 36: E1/2 ;

Township 15 South, Range 8 East, SLM

- Sec. 17: S1/2, S1/2N1/2;
- Sec. 18: S1/2S1/2, NE1/4SW1/4(part), NW1/4SW1/4 (part);
- Sec. 19: All;
- Sec. 20: All;
- Sec. 21: All;
- Sec. 26: W1/2SW1/4;
- Sec. 27: S1/2, SW1/4NW1/4;
- Sec. 28: All;
- Sec. 29: All;
- Sec. 30: All;
- Sec. 31: All;
- Sec. 32: All;
- Sec. 33: All;
- Sec. 34: N1/2, SW1/4, N1/2SE1/4;
- Sec. 35: NW1/4, NW1/4SW1/4;

Township 16 South, Range 8 East, SLM

- Sec. 3: W1/2;
- Sec. 4: All;
- Sec. 5: All;
- Sec. 6: NE1/4SE1/4, Lots 1 thru 10;
- Sec. 8: E1/2E1/2;
- Sec. 9: All;

This legal description is for the permit area of the Hiawatha Mine. The permittee is authorized to conduct coal mining and reclamation operations on the foregoing described property subject to the conditions of the leases, including all conditions of the permit and all other applicable conditions, laws and regulations.

The designated permit area as described above excludes 55 acres for the town of Hiawatha in:

T. 15 S., R. 8 E., SLM, Secs. 27 and 34

Sec. 3 COMPLIANCE - The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.

Sec. 4 PERMIT TERM - This permit expires on March 14, 2027.

Sec. 5 ASSIGNMENT OF PERMIT RIGHTS - The permit rights may not be transferred, assigned or sold without the approval of the Director, DOGM. Transfer, assignment or sale of permit rights must be done in accordance with applicable regulations, including but not limited to 30 CFR 740.13(e) and R645-303.

Sec. 6 RIGHT OF ENTRY - The permittee shall allow the authorized representative of the DOGM, including but not limited to inspectors, and representatives of OSMRE, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:

- (a) have the rights of entry provided for in 30 CFR 840.12, R645-400-110, 30 CFR 842.13 and R645-400-220; and,
- (b) be accompanied by private persons for the purpose of conducting an inspection in accordance with R645-400-100, R645-400-200 and 30 CFR 842, when the inspection is in response to an alleged violation reported by the private person.

Sec. 7 SCOPE OF OPERATIONS - The permittee shall conduct coal mining and reclamation operations only on those lands specifically designated as within the permit area on the maps submitted in the mining and reclamation plan and permit application and approved for the term of the permit and which are subject to the performance bond.

Sec. 8 ENVIRONMENTAL IMPACTS - The permittee shall minimize any adverse impact to the environment or public health and safety through but not limited to:

- (a) accelerated monitoring to determine the nature and extent of noncompliance and the results of the noncompliance;
- (b) immediate implementation of measures necessary to comply; and
- (c) warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

Sec. 9 DISPOSAL OF POLLUTANTS - The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

Sec. 10 CONDUCT OF OPERATIONS - The permittee shall conduct its operations:

- (a) in accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and
- (b) utilizing methods specified as conditions of the permit by DOGM in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 11 EXISTING STRUCTURES - As applicable, the permittee will comply with R645-301 and R645-302 for compliance, modification, or abandonment of existing structures.

Sec. 12 RECLAMATION FEE PAYMENTS - The operator shall pay all reclamation fees required by 30 CFR part 870 for coal produced under the permit, for sale, transfer or use.

Sec. 13 AUTHORIZED AGENT - The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.

Sec. 14 COMPLIANCE WITH OTHER LAWS - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq.) and the Clean Air Act (42 USC 7401 et seq), UCA 26-11-1 et seq, and UCA 26-13-1 et seq.

Sec. 15 PERMIT RENEWAL - Upon expiration, this permit may be renewed for areas within the boundaries of the existing permit in accordance with the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 16 CULTURAL RESOURCES - If during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify DOGM. DOGM, after coordination with OSMRE, shall inform the permittee of necessary actions required. The permittee shall implement the mitigation measures required by DOGM within the time frame specified by DOGM.

Sec. 17 APPEALS - The permittee shall have the right to appeal as provided for under R645-300.

Sec. 18 SPECIAL CONDITIONS - There are special conditions associated with these permitting actions as described in Attachment A.

The above conditions (Sections 1-18) are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them. These conditions may be revised or amended, in writing, by the mutual consent of DOGM and the permittee at any time to adjust to changed conditions or to correct an oversight. DOGM may amend these conditions at any time without the consent of the permittee in order to make them consistent with any new federal or state statutes and any new regulations.

THE STATE OF UTAH

By: *J.R.B.*
John Baza (Mar 7, 2022 14:07 MST)

Date: 03/07/2022

I certify that I have read, understand and accept the requirements of this permit and any special conditions attached.

PERMITTEE

N.J. Finley
Authorized Representative of the Permittee

Date: 3-27-2022

Attachment A

SPECIAL CONDITIONS

1. Hiawatha Coal Company will submit water quality data for the Hiawatha Mine in an electronic format through the Electronic Data Input web site, <https://www.ogm.utah.gov/coal/wqdb.php>
2. Underground coal mining within the Bear Canyon LMU is conditioned upon right-of-entry reverting back to Hiawatha Coal Company. Until Hiawatha Coal Company has appropriate right-of-entry, no coal mining may occur in the Bear Canyon LMU under this permit.
3. Hiawatha Coal Company will comply with Utah Division Order DO-22A (Attached).

STATE OF UTAH

DIVISION OF OIL, GAS AND MINING

PERMITTEE

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

PERMIT NUMBER C/007/0011
DIVISION NUMBER DO-22A

ORDER & FINDINGS OF PERMIT DEFICIENCY

PURSUANT to R645-303-212, the DIVISION ORDERS the PERMITTEE, Hiawatha Coal Company (the Permittee) to make the requisite permit changes enumerated in the findings of Permit Deficiency to be in compliance with the State Coal Program. These findings are to be remedied in accordance with R645-303-220.

FINDINGS OF PERMIT DEFICIENCY

Upon review of the current Hiawatha Complex Mining and Reclamation Plan (MRP), the Division of Oil, Gas and Mining (the Division) has determined that the information presented does not reflect conditions that have developed at the site and is therefore deficient. The Utah Admin. Code requires these conditions to be addressed in the MRP.

In June of 2012, the Seeley Fire severely impacted large swaths of land in the undisturbed watersheds that contribute stormwater runoff to the Hiawatha Mine. As a result, the watershed's response to precipitation events has caused significant increases to peak runoff volumes and sedimentation rates. These increased volumes have led to well documented instances of plugged bypass culverts which produce damaging effects to the mine site, the disturbed and undisturbed stormwater conveyance systems and raise the potential for off-site impacts. The effects of the Seeley Fire to the contributing undisturbed watershed characteristics of the site are not contemplated in the current MRP. Given the numerous documented observations and evidence compiled by Division staff and the Office of Surface Mining and Reclamation Enforcement (OSMRE), the current hydrologic designs of the undisturbed stormwater conveyance system in the MRP are inadequate and necessitate a revision to the narrative, designs, and drawings of

Chapter VII. It follows that components of the undisturbed stormwater conveyance system may need to be re-sized and replaced to meet the performance standards identified in the State of Utah R645 Rules (R645 Rules).

Additionally, in response to subsequent precipitation events and resulting sedimentation reporting to the Hiawatha Mine, impoundments and other disturbances have been constructed. The impoundments/disturbances are not contemplated or identified within the MRP. As they are in direct connection with the existing stormwater conveyance system for the mine site, they must be permitted to ensure they meet the performance standards of the R645 Rules and are adequately bonded for final reclamation.

R645-300-133.400 requires the Division to make an assessment and written findings of the *“probable cumulative impacts of all anticipated coal mining and reclamation operations on the hydrologic balance in the cumulative impact area and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.”*

The Division finds the current Hiawatha Mine MRP deficient per R645-301-520 through R645-301-540, R645-301-730 through R645-301-760, and R645-301-810 through R645-301-830.

Division Order DO-22A (DO-22A) is hereby attached as a special condition to the Hiawatha Mine’s State of Utah Coal Mining and Reclamation Permit (Permit Number C/007/0011).

ORDER

Hiawatha Coal Company is hereby ordered to revise the Hiawatha Mine MRP in accordance with R645-303-220 and submit to the Division a complete and adequate application for permit change to address the findings of permit deficiency. The following amendment content considerations and allotted time frames must be adhered to:

- 1) Provide an amendment to the Hiawatha Mine MRP with updated peak runoff and soil loss calculations for all undisturbed watersheds (including those not currently contemplated in the MRP) that contribute stormwater runoff to the Hiawatha Mine site by no later than June 13th, 2022.
- 2) Based on the updated peak runoff and soil loss calculations, provide an amendment to the Hiawatha Mine MRP with updated designs, supporting calculations, supporting narrative, detailed drawings, and updated reclamation costs for any undisturbed watershed stormwater conveyance system component (i.e., diversion, impoundment) that no longer meets the R645 performance standards by no later than June 13th, 2022.

3) Provide an amendment to the Hiawatha Mine MRP with the designs, supporting calculations, supporting narrative, detailed drawings and reclamation costs for all impoundments and disturbances not identified in the MRP by no later than June 13th, 2022.

4) Complete construction, installation, earthwork, improvements etc. identified in Items 1-3 within one calendar year of receipt of final Division approval of the amendment.

Ordered this 2nd day of March 2022 by the Division of Oil, Gas and Mining.



Dana Dean, Deputy Director
Division of Oil, Gas and Mining