

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

August 15, 2005

TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor

THRU: Wayne Western, Co-Team Lead

FROM: Dana Dean, P.E., Senior Reclamation Hydrologist/Co-Team Lead

RE: Lila Canyon Extension, UtahAmerican Energy, Inc., Horse Canyon Mine, C/007/0013, Task #2304

SUMMARY:

UtahAmerican Energy (UEI, the Permittee) submitted its latest PAP to extend the Horse Canyon Mine on June 13, 2005.

This memo addresses the administrative sections of the application only.

The application meets the minimum requirements of the administrative sections of the regulations. The Division should approve the amendment and incorporate it into the existing MRP.

TECHNICAL MEMO

TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

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

Analysis:

The Permittee has complied with the requirements of R645-301-112 as described below.

The application states that the Permittee (UtahAmerican Energy, Inc) is a corporation, qualified to do business in the state of Utah (R645-301-112.100).

The application includes the names, telephone numbers, and addresses of the Permittee, Permittee's Resident Agent, and the person who will pay the abandoned mine land reclamation fee. The application also identifies the Permittee's employer identification number (EIN), and in the confidential binder, the social security numbers for the Resident Agent and the person who will pay the abandoned mine land reclamation fee (R645-301-112.200 *et seq*).

The Permittee has identified the operator of the coal mine, and all owners and controllers of the operation, by name and address in Appendix 1-1. The information includes each person's title, and the date they assumed that position. Mr. Robert D. Moore, Secretary of the Corporation certified that the information was complete and correct, as of January 28, 2005. The Permittee has included employer identification numbers where applicable, and social security numbers for company officers. Since the Permittee lists Coal Resources, Inc. as the 100% owner of UtahAmerican Energy, the Permittee provided the social security numbers for all officers, owners, and controllers of UtahAmerican Energy, Inc.; Coal Resources, Inc.; and their parent, Murray Energy Corporation. Because the privacy of personal information is important, the Permittee placed the information in the confidential binder. The Permittee lists each additional name and identifying number, including employer identification number, Federal or State permit number, and MSHA number with date of issuance, under which the Permittee owns or controls, or previously owned or controlled, a coal mining and reclamation operation in the United States within five years preceding the date of the application in Section 112.340, and Appendix 1-2 of the MRP. In Section 112.350, the Permittee states, "There are no pending coal mine permit applications in any State in the United States (R645-301-112.300- *et seq*, R645-301-112.400- *et seq*).

The Permittee lists each legal owner of surface and mineral property in the permit area in Section 112.500; surface land ownership is shown on Plate 4-1, and mineral ownership is shown on Plate 5-4. Owners of adjacent property are listed in Section 112.600 (R645-301-112.500, 600).

The Permittee lists the MSHA numbers for the Horse Canyon and Lila Canyon Mines, as well as the proposed refuse pile in Section 112.700 (R645-301-112.700).

After the Division approves the application, but before issuing the permit, the Division will require the Permittee to update, correct, or indicate that the information submitted under R645-301-112.100 to R645-301-112.800 has not changed (R645-301-112.900).

Findings:

Information provided in the PAP meets the minimum requirements of the Identification of Interests section of the regulations.

VIOLATION INFORMATION

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

Analysis:

The Permittee has complied with the requirements of R645-301-113 and subsections as described below.

The Permittee states in Sections 113.100-120 that no subsidiary, affiliate, or persons controlled by or under common control with the Permittee has had a federal or state permit to conduct coal mining and reclamation operations suspended or revoked in the five years preceding the date of submission of the application or forfeited a performance bond or similar security deposited in lieu of bond. The Permittee lists all violation notices received by the Permittee during the three year period preceding the application date, and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by all coal mining and reclamation operations owned or controlled by either the Permittee or by any person who owns or controls the Permittee in Appendix 1-3. The list includes:

- Identifying numbers, including the Federal and State permit numbers and MSHA numbers;
- The name of the person to whom the violation was issued;
- The issuing regulatory authority, department, or agency;
- A brief description of the alleged violation;

TECHNICAL MEMO

- Information on any administrative or judicial proceedings initiated concerning the violation;
- The current status of the proceedings and the violation notice; and
- The actions, if any taken by the operator to abate the violation.

After the Division notifies the Permittee that they have approved the application, but before they issue the permit, the Division will require the Permittee to update, correct, or indicate that the information submitted under R645-301-113 has not changed (R645-301-113- *et seq*).

Findings:

Information provided in the PAP meets the minimum requirements of the Violation Information section of the regulations.

RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

Analysis:

The Permittee has complied with the requirements of R645-301-114 and subsections as described below.

The Permittee bases its right of entry to the coal in the permit area on Federal Coal Leases held by the Permittee (Section 114.100). Table 1-1 lists the applicable leases, none of which is the subject of pending litigation. For surface access, the BLM is prepared to grant Rights-of-Way. The BLM signed a Decision Record for the Lila Canyon Mine Project on November 27, 2000 granting a right-of-way to UtahAmerican for the construction and operation of the Lila Canyon facilities. Though the case has been in litigation, the BLM is prepared to grant the right-of-way (see letter dated Jan 4, 2001 in appendix 1-6). (R645-301-114.100)

There is not private mineral estate involved in the Lila Canyon Extension (R645-301-114.200 *et seq*).

Findings:

Information provided in the PAP meets the minimum requirements of the Right of Entry section of the regulations.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

Analysis:

The Permittee has complied with the requirements of R645-300-121.120, R645-300-141, and R645-301-112.800, and R645-301-115 as described below.

The plan includes a map (Plate 1-1) and description (see Public Notice, Appendix 1-5) which clearly show and describe the precise location and boundaries of the proposed permit area and are sufficient to enable local residents to readily identify the proposed permit area (R645-300-121.120).

In Section 112.800 of the MRP, the Permittee makes a statement of interest in land to the south and east of the Lila Canyon Extension, where they have a Lease-by-Application (LBA) on file with the BLM (R645-301-112.800). The Permittee states:

In February 2002, UEI submitted a lease by application to the BLM. Four thousand acres were identified as an area of interest to the south and east of current UEI reserves. The LBA delineation and recoverable reserves has yet to be determined by the BLM. If the area of interest is offered for lease, and if UEI bids on the LBA and if UEI is the successful bidder then it could be anticipated that mining in the leased area would occur once current Lila reserves are exhausted. (Approximately in the year 2020)

The Permittee will conduct coal mining and reclamation operations only on those lands that:

- Are specifically designated as the permit area (on Plate 1-1, and in the Public Notice);
- Authorized for the term of the permit; and
- Are subject to the performance bond or other equivalent guarantee in effect pursuant to R645-301-800. (R645-300-141)

The permit area does not include any lands within an area designated as unsuitable for mining, or under study for designation as unsuitable for mining. The Turtle Canyon Wilderness Study Area does jut into the permit area, but the only effect mining would have on it would be subsidence, which is not considered surface disturbance under the Rules. In any case, the Permittee has valid and existing rights (VER) to mine the coal in the areas currently under lease. The Permittee has not requested an exemption based on R645-103-333. There are no occupied dwellings within 300 feet of the Lila Canyon Mine, but there is a public road within 100 feet of

TECHNICAL MEMO

the mining boundary. The Permittee has obtained permission from Emery County to mine within 100 feet of the road, as required by R645-103-234.100 (Appendix 1-4). Before construction of the mine may begin, the Permittee must also comply with the requirements of R645-103-234.200 through R645-103-234.300 and provide opportunity for a public hearing, this will be a condition to the permit (R645-301-115 *et seq*).

Findings:

The information found in the PAP meets the minimum requirements of the Legal Description and Status of Unsuitability Claims sections of the regulations.

PERMIT TERM

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

Analysis:

The Permittee has complied with the requirements of R645-310-116 and subsections, as described below.

The PAP includes anticipated starting and termination dates for the life of the mine in section 116. They are as follows:

Phase	Begin	Complete
Mining Pad, Support Structures, and Portals	June 2005	Dec. 2005
Begin Underground Work	June 2005	
Terminate Underground Mining		Dec. 2019

The Permittee will need to adjust these dates, depending on when the Division approves the application. However, the information indicates that construction will begin as soon as the Division issues a permit, construction will take approximately 6 months, and mining will last approximately 14 years. The life-of-mine estimate is based on a production rate of 4.5 million tons per year.

The Permittee describes the affected acres in table 4-2, and shows the permit area on Plate 1-1 and disturbed area on Plate 1-2.

The initial permit term is five years.

Findings:

Information provided in the PAP meets the minimum requirements of the Permit Term section of the regulations.

PUBLIC NOTICE AND COMMENT

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

Analysis:

The Permittee has complied with the requirements of R645-300-120 and R645-301-117.200 as described below.

After the Division found the application administratively complete on March 26, 2004, the Permittee published public notices in the Sun Advocate (April 1, 8, 15, and 22, 2004), and the Emery County Progress (April 6, 13, 20, and 27, 2004), newspapers of general circulation in the Emery and Carbon County areas. A copy of the affidavit of publication is in Appendix 1-5.

The notice included the name and business address of the Permittee, a map and legal description of the permit area, the location where a copy of the application is available for inspection, and the name and address of the Division where public comments may be submitted.

There was no notice of the public road within 100 feet of the permit area. Before construction of the mine may begin, the Permittee must also comply with the requirements of R645-103-234.200 through R645-103-234.300 and provide opportunity for a public hearing. The Division will require this as a condition to the permit as described in "Legal Description and Status of Unsuitability Claims."

The application does not include any requests for an experimental practice.

The Division made copies of the Lila Canyon Extension PAP available in the Emery and Carbon County Courthouses, as well as at the Division of Oil, Gas, and Mining offices in Salt Lake City and Price.

On March 29, 2004 the Division issued written notification indicating the applicant's intention to conduct coal mining and reclamation operations within the described tract of land, the application number, the location where the copy of the application could be inspected, and the location where comments on the application may be submitted. The Division sent the notification to:

TECHNICAL MEMO

- All local governmental agencies with jurisdiction over or an interest in the area of the proposed coal mining and reclamation operation, including but not limited to planning agencies, sewage and water treatment authorities, water companies; and
- All federal and state governmental agencies with authority to issue permits and licenses applicable to the proposed coal mining and reclamation operation and which are part of the permit coordinating process developed in accordance with the State Program, Section 503(a)(6) or Section 504(h) of P.L. 95-87, or 30 CFR 733.12; including the Natural Resource Conservation Service district office, the local U.S. Army Corps of Engineers district engineer, state and federal fish and wildlife agencies, and Utah State Historic Preservation Officer.

Findings:

Information provided in the PAP meets the minimum requirements of the Public Notice and Comment section of the regulations.

FILING FEE

Regulatory Reference: 30 CFR 777.17; R645-301-118.

Analysis:

The Permittee paid a five-dollar filing fee as required by the Rules.

Findings:

Information provided in the PAP meets the minimum requirements of the Filing Fee section of the regulations.

REPORTING OF TECHNICAL DATA

Regulatory Reference: 30 CFR 777.13; R645-301-130.

Analysis:

The Permittee has complied with the requirements of R645-301-130 by providing the names and qualifications of the individuals and organizations that collected and analyzed data in Appendix 1-5. These individuals are the professionals qualified in the subjects who planned or oversaw the technical analyses.

Findings:

Information provided in the PAP meets the minimum requirements of the Reporting of Technical Data section of the regulations.

MAPS AND PLANS

Regulatory Reference: 30 CFR 777.14; R645-301-140.

Analysis:

The Permittee has complied with the requirements of R645-301-140 as described below.

All maps and plans that the Permittee submitted with the PAP comply with the scale and base information requirements of the regulations. Plate 5-1 shows the areas mined prior to, and after August 3, 1977. There is no surface disturbance in the Lila Canyon Extension area.

Findings:

Information provided in the PAP meets the minimum requirements of the Maps and Plans section of the regulations.

COMPLETENESS

Regulatory Reference: 30 CFR 777.15; R645-301-150.

Analysis:

The Permittee submitted a Permit Application Package (PAP) to the Division on February 24, 2004. The Division determined the PAP to be *administratively* complete on March 26, 2004. The Division found the PAP to be *technically* adequate on September 15, 2005. The *technical* adequacy of the PAP is the subject of each reviewer's Technical Memo.

Findings

Information provided in the PAP meets the minimum requirements of the Completeness section of the regulations.

TECHNICAL MEMO

RECOMMENDATIONS:

The application meets the minimum requirements of the administrative sections of the regulations. The Division should approve the amendment and incorporate it into the existing MRP.

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