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Mountain Coal Company

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February 25, 1994

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Ms. Pamela Grubaugh-Littig
Department of Natural Resources
Division of Oil, Gas and Mining
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

*File ACT/007/016
#2*

Re: **Gordon Creek Nos. 2 and 7 Mines**

Dear Pamela:

Mountain Coal Company has been reviewing the reclamation of portal face up areas at the Gordon Creek Nos. 2 and 7 mines. Mountain Coal received a permit from the Division allowing retention of these portal faceup areas upon reclamation of this area, and Mountain Coal constructed the mines in accordance with the terms of its permit. That permit is consistent with Division regulations and was approved by the United States Office of Surface Mining (OSM). Mountain Coal therefore has no obligation to backfill portal faceup areas at the Gordon Creek Mines. Nonetheless, Mountain Coal has over the past two years attempted to work with the Division to address programmatic concerns that could affect the reclamation of the Gordon Creek faceup areas. Mountain Coal, at the suggestion of the Division, had at one point proposed a change in postmining land use for the Gordon Creek Mine area. Mountain Coal submitted a letter to the Division from the surface owner of this land requesting that change. As it turned out, the Division and Mountain Coal reached an agreement in principle concerning how to accomplish a final reclamation that did not involve a change in postmining land use or require restoration to approximate original contour. As part of that agreement, Mountain Coal agreed to eliminate the portal faceup at the Gordon Creek No. 8 Mine and partially eliminate portal faces at the Nos. 2 and 7 Mines. As a result of OSM concerns, however, the Division has not reviewed a revised permit reflecting that agreement. In an effort to resolve this issue and progress with reclamation of this site, Mountain Coal has agreed to work with the Division to review other approaches to settle the issues towards reclamation.

As a result, Mountain Coal Company recommends that it pursue a change in postmining land use for the Gordon Creek Mine area as part of the permit renewal that will be completed this year. The land owner, Calvin Jacob, has renewed his request for this change, and Mountain Coal understands that his letter has been sent to Mr. Carter for his review. More specifically, Mr. Jacob would like the postmining land use for this area to be changed from wildlife to grazing and light industrial uses. Mr. Jacob would like to build a corral for his sheep in this area and use it as

a staging area for grazing on his property. To accomplish his purposes, he will need the road to the No. 7 Mine, as well as the pad area at that mine.

This change in postmining land use is consistent with the criteria set out at Section 645-301-413.300: (1) there is a reasonable likelihood for achievement of the use; (2) this use will not present a hazard to public health or safety, nor will it threaten water resources; (3) it is not impractical or unreasonable; (4) it is consistent with applicable land use policies; (5) it does not involve an unreasonable delay in implementation; and (6) it will not cause or contribute to a violation of law.

Division regulations allow for a variance from approximate original contour where that variance supports a change in postmining land use. R645-301-553.600 - 553.610. The change in postmining land use proposed by Mountain Coal and Mr. Jacob is precisely the type of change that was contemplated in the rules. The Gordon Creek Mines are located in rugged country with steep slopes and natural cliffs. Allowing a variance from approximate original contour will provide level surfaces, which means the land can be put to a higher and better use. Requiring restoration of this area to approximate original contour will render it inaccessible, which is not in the interest of Mr. Jacob. This change in postmining land use meets the criteria for a variance set forth at R645-302-270 et seq:

1. As noted above, this change in postmining land use meets the requirement of R546-301-413.300.
2. The reclamation will meet all other requirements of the State Program.
3. This use will be a better economic use of the land.
4. Mountain Coal and the Division can allow interested governmental agencies time to review and comment on the proposed use.
5. After reclamation, the area will be suitable for industrial and commercial uses.
6. The surface owner has requested this change in postmining land use, and understands that the portal faceup areas will not be completely eliminated because of that request.
7. Mountain Coal will take steps to assure that the watershed is improved, as described in the Division regulation.
8. Mountain Coal will backfill portal faceup areas to the extent consistent with the postmining land use and to achieve a static safety factor of at least 1.3.

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Mountain Coal recognizes that the change in postmining land use constitutes a significant alteration of the permit, and is therefore subject to the permitting process described at R645-300-120,-155, and -200. This letter is not meant to be an official request for a change in postmining land use. Rather, Mountain Coal would like to meet with the Division to discuss the viability of this approach, and if the Division agrees, Mountain Coal will include a request for change in postmining land use and variance from approximate original contour in the permit renewal process for the Gordon Creek Mines that will begin this year.

Mountain Coal believes that a change in postmining land use provides the most efficient resolution of issues arising from the reclamation of the portal faceups at the Gordon Creek Nos. 2 and 7 mines. The regulations clearly allow a variance from approximate original contour to create usable lands in otherwise inaccessible areas, a variance that is entirely consistent with the goals of the Utah program and SMCRA. The only alternative to this approach is for Mountain Coal to pursue complete retention of the portal faces as contemplated in the original permits for these mines.

Mountain Coal looks forward to the opportunity to discuss this approach with you. We discussed meeting on March 14th, but will, of course, meet with you whenever it is convenient.

Thank you for your continued attention to this matter.

Sincerely,



Phil G. Schmidt

PGS:pd

cc: James Carter, Director, Division of Oil Gas & Mining
S. W. Anderson DAT 2058
E. E. DiClaudio WE
K. G. Welt WE