0023

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

June 5, 1986

Mr. M. D. Ross
President and General Manager
Soldier Creek Coal Company
P. O. Box I
Price, Utah 84501

Dear ~~Mr. Ross~~ Don:

Re: Approval for Permit Transfer, Soldier Canyon Mine, ACT/007/018, Folder No. 2 and 4, Carbon County, Utah

The Division has found that Soldier Creek Coal Company has met all requirements for a permit transfer as required under UMC 788.18. Therefore, in accordance with the attached Findings, the request for transfer of the permit for the Soldier Canyon Mine is hereby approved.

As you are aware, Soldier Creek Coal Company is now responsible for all prior commitments relating to this operation as made by previous operators. Please contact me or Lowell Braxton if we can provide further assistance.

Best regards,

Dianne

Dianne R. Nielson
Director

SCL:jvb
cc: A. Klein
C. Durrett, Sunedco
L. Braxton
S. Linner
0028R-61

FILE COPY

FINDINGS

Transfer of Permit Rights
Soldier Canyon Mine
Solider Creek Coal Company
ACT/007/018
Carbon County, Utah

June 5, 1986

On April 1, 1986, the Division of Oil, Gas and Mining (DOGM) approved a transfer of permit rights for the Soldier Canyon Mine from Soldier Creek Coal Company to Sunedco Coal Company. On March 26, 1986 Sunedco Coal Company notified DOGM that an agreement was reached which would allow a reorganized Soldier Creek Coal Company, now an affiliate of Sunedco Coal Company, to resume as mine operator. This action authorizes transfer of permit rights from Sunedco Coal Company back to Soldier Creek Coal Company.

The applicant for transfer of permit rights, Soldier Creek Coal Company has committed to continue to conduct the operations involved in full compliance with the terms and conditions of the original permit issued to Soldier Creek Coal Company and later transferred to Sunedco Coal Company (UMC 788.18(c)(3)). Therefore, Findings II. 1-4, and 9-17 of the original Decision Document (attached) are still pertinent.

The following findings specifically apply to the application for transfer of permit rights.

1. The State of Utah has determined that the application for transfer of permit rights is accurate and complete, and complies with the requirements of UMC 788.18(a) and (b).

2. The applicant has obtained a performance bond equivalent to the bonding requirements of the original permit, in the amount of $522,592. (UMC 788.18(c)(2)).

3. The applicant has the legal right to enter and begin underground coal mining activities pursuant to a working agreement between Soldier Creek Coal Company and Sunedco Coal Company.

4. The Office of Surface Mining (OSM) has assessed the applicant's compliance with Section 510(c) of the Surface Mining Control and Reclamation Act. It has been found that all AML fees have been paid and all outstanding Cessation Orders, civil penalties and violations have been resolved, save for several violations that are being appealed by Shamrock Coal Company. OSM has conditioned approval of the permit transfer pending outcome of the appeals.

5. Procedures for public participation have complied with requirements of the Act and the Utah State Program. Notice was published as required by UMC 788.18(b)(1). No comments were received.

Susan C. Linner
DOGM Lead Reviewer

Lowell P. Braxton
Administrator, Mineral Resource Development and Reclamation Program

Kenneth E. May
Associate Director, Mining

Mark E. Moench
Attorney General
Approved as Form

Dianne R. Nielson
Director

jvb
0580R

FINDINGS

Soldier Creek Coal Company
Soldier Canyon Mine

Application for Mining Plan

I. The Office of Surface Mining (OSM) has determined that the permit application submitted on May 23, 1981, and updated through December 18, 1984, and the permit is accurate and complete and complies with the requirements of the approved Utah State Program, the Surface Mining Control and Reclamation Act (SMCRA), and the Federal Lands Program. [UMC 786.19]

II. OSM has reviewed the permit application and mining plan, and prepared the technical analysis (TA). OSM has prepared the environmental assessment (EA) and based on this has made the following findings:

1. The applicant proposes acceptable practices for the reclamation of disturbed lands. These practices have been shown to be effective in the short-term; there are no long-term reclamation records utilizing native species in the Western United States. Nevertheless, the OSM staff has determined that reclamation, as required by the Act, can be feasibly accomplished under the mining plan.

   OSM has determined that reclamation is technologically and economically feasible under SMCRA Section 522. [UMC 786.19 (b); TA, Chapters XIV, XV and XX]

2. The probable cumulative hydrologic impact assessment (PCHIA) of all existing and anticipated mining by surface coal mines in the general area indicates there is an anticipated increase in the annual loads for total dissolved solids (TDS). The maximum TDS load will occur in the mid 1990's but discharge from Soldier Canyon mine will not exceed the NPDES effluent limitation of 1.0 ton per day. The information available indicates that no material damage on existing water users will occur.

   All the portal facilities for the existing and proposed mining operations are located within the Soldier Creek drainage. There is potential for subsidence in the Soldier Creek drainage and directly beneath the creek. However, underground operations will include the retention of support pillars beneath and within 100 feet on both sides of Soldier Creek. The support pillars have been adequately designed to prevent subsidence beneath Soldier Creek. Springs will be monitored and water rights will be replaced if necessary. No material damage from subsidence is anticipated.

The surface and underground operations in the permit have been designed to prevent material damage to the hydrologic balance within and outside the permit area. [UMC 786.19(c); TA, pages 14 through 21 and Attachment 1 (CHIA Summary); PAP, Chapter 7; and National Environmental Policy Act (NEPA) document, pages 8 and 9.]

The surface mine operations proposed under the application have been designed to prevent damage to the hydrologic balance in associated off-site areas. [UMC 786.19(c); TA, pp. 15-17; mining plan or permit application Chapter VII; National Environmental Policy Act (NEPA) compliance document, CHIA pp. 6-2 and 6-3]

3. After reviewing the description of the proposed permit area, OSM determines this area is:

   a. Not included within an area designated unsuitable for surface coal mining operations. [UMC 786.19(d)(1)]

   b. Not within an area under study for designating lands unsuitable for surface coal mining operations. (See Bureau of Land Management correspondence dated March 19, 1984) [UMC 786.19(d)(2)]

   c. Not on any lands subject to the prohibitions or limitations of UMC 761.11(a) (national parks, etc.), 761.11(f) (public buildings, etc.), and 761.11(g) (cemeteries). [UMC 786.19(d)(3); TA, Chapter IV, pp. 12]

   d. Within 100 feet of the outside right-of-way of Utah Highway 53 public road. [UMC 786.19(d)(4); TA, Chapter XXIII, page 30] The applicant has received formal permission from the Carbon County Commissioners to mine within 100 feet of the right-of-way of a public road.

   e. Not within 300 feet of any occupied dwelling. [UMC 786.19(d)(5); DOA response, March 30, 1984, pp.2-10A]

   f. Not unsuitable in accordance with 522(b) of SMCRA.

4. OSM's issuance of a permit and the Secretarial decision on the Mineral Leasing Act plan will be in compliance with the National Historic Preservation Act and implementing regulations (36 CFR 800). [UMC 786.19(e); TA, Chapter VI, page 13; State Historic Preservation Officer concurrence letter dated October 4, 1984]

5. The applicant has the legal right to enter and begin surface mining activities in the permit area. [UMC 782.15; PAP, Chapter II, pp. 2-10,]

6. The applicant has submitted proof and OSM's records indicate that prior violations of applicable law and regulations have been corrected. [UMC 786.19(i); personal communication with Frank Atencio, OSM Reclamation Specialist, in OSM Albuquerque Field Office, and Joe Helfrich, UDOGM, on November 14, 1984]

7. OSM's records confirm that all fees for the Abandoned Mine Reclamation Fund have been paid. [UMC 786.19(h); personal communication with John Sender, OSM Fee Compliance Officer, in OSM Albuquerque Field Office on November 13, 1984]

8. OSM and UDOGM records show that the applicant does not control and has not controlled mining operations with a demonstrated pattern of willful violations of the Act of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act. However, UDOGM is currently reviewing their records to determine the potential of a pattern of violations related to disposal of waste rock. The proposed operations at Soldier Canyon mine includes a waste rock disposal site within the permit area which will provide for proper disposal. [UMC 786.19(i); personal communication with Joe Helfrich, UDOGM, on December 13, 1984; PAP, Volume 4, Waste Rock Disposal Plan]

9. Surface coal mining and reclamation operations to be performed under the permit will not be inconsistent with the Sage Point - Dugout Canyon underground mine in the immediate vicinity of the Soldier Canyon mine. [UMC 786.19(j)]

10. The applicant has provided evidence and OSM has found there are no prime farmlands in the permit area and area for life-of-mine. [UMC 786.19(l); See Soil Conservation Service letter dated July 20, 1983; PAP, page 20]

11. Negative alluvial valley floor (AVF) determinations have been made for the drainages in the proposed permit area and area for life-of-mine. These determinations were made on the basis of the lack of sufficient unconsolidated stream laid deposits to allow subirrigation or flood irrigation agricultural activities to occur. The Soldier Creek valley in the vicinity of the mine is broken and rough and the soils are rocky, making the area additionally unsuitable for subirrigation or flood irrigation agricultural activities. An AVF has been identified 5 miles south of the Soldier Canyon mine, however, OSM has determined that material damage will not occur from the Soldier Canyon mine. [UMC 786.19(l); TA, Chapter X, page 17]

12. As applicable, the permittee shall comply with 30 CFR 701.11(d) and Subchapter B or K for compliance, modification, or abandonment of existing structures.

13. The proposed postmining land use of the permit area has been approved by UDOGM, BLM, and OSM. [UMC 786.19(m)]

14. UDOGM and OSM have made all specific approvals required by the Act, the approved Utah State Program and the Federal Lands Program. [UMC 786.19(n)]

15. The proposed operation will not affect the continued existence of threatened or endangered species or result in the destruction or adverse modification of their critical habitats. [UMC 786.19(n); TA, Chapter XV, page 23, and Chapter XVI, page 26; U.S. Fish and Wildlife Service memorandum dated September 7, 1984]

16. Procedures for public participation have complied with requirements of the Act, the approved Utah State Program, the Federal Lands Program, and Council on Environmental Quality regulations (40 CFR Part 1500 et seq.). [30 CFR 740.13(c)(3); Chronology of Events].

17. The applicant has complied with all other requirements of applicable Federal laws and either have or have applied for permits from Environmental Protection Agency, Mine Safety and Health Administration, Utah Department of Health, and Utah Department of Natural Resources. [30 CFR 746.13(g)]

Allen D. Klein

Administrator
Western Technical Center

Headquarters Reviewing Officer