



0045

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

February 4, 1986

Mr. Allen Klein, Administrator
Office of Surface Mining
Brooks Towers
1020 15th Street
Denver, Colorado 80202

Dear *Allen* Klein:

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

Enclosed is Utah's Findings Document regarding the transfer of permit for the Soldier Canyon Mine from Soldier Creek Coal Company to Sunedco Coal Company.

Utah is satisfied that Sunedco Coal Company has met all requirements for transfer of permit as outlined under UMC 788.18. Approval for permit transfer will be issued after the Office of Surface Mining completes its 510(c) clearance requirement.

Please feel free to contact me or Susan Linner if you have questions.

Best regards,

Dianne R. Nielson
Director

SCL:jvb
Enclosure
cc: C. Durrett, Sunedco Coal
R. Holbrook
L. Braxton
J. Leatherwood
S. Linner

0028R-68

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FINDINGS

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

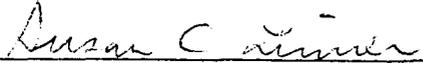
February 4, 1986

The applicant for transfer of permit rights, Sunedco 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 (UMC 788.18(c)(3)). Therefore, Findings II. 1-4, and 9-17 of the original Decision Document (attached) are still pertinent.

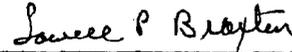
The following findings specifically apply to the application for transfer of permit rights.

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 the Sale and Purchase Agreement between Soldier Creek Coal Company and Sunedco Coal Company.
4. The applicant has submitted proof and DOGM's records indicate that prior violations of applicable laws and regulations in Utah have been corrected. DOGM's records show that Sunedco has received no violations in Utah.
5. Sunedco Coal Company has paid no fees to the Abandoned Mine Reclamation Fund from Utah mines, as no coal has been produced by Sunedco in Utah.
6. DOGM's 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. DOGM's records show that Sunedco has received no violations in Utah.

7. 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).



DOGM Lead Reviewer



Administrator, Mineral Resource
Development and Reclamation Program



Associate Director, Mining



Attorney General
Approved as Form



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(1); 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(1); 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)]



Administrator
Western Technical Center

Headquarters Reviewing Officer

MR FORM 5

(Revised December 1984)

Bond Number 8107 37 63
Permit Number ACT/007/018 UT-0023
Mine Name Soldier Canyon Mine

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
(801) 538-5340

THE MINED LANDS RECLAMATION ACT

BOND

The undersigned Sinodco Coal Co. as principal, and FEDERAL INSURANCE COMPANY as surety, hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns unto the State of Utah, Division of Oil, Gas and Mining, and the U. S. Department of the Interior, Office of Surface Mining in the penal sum of Five hundred twenty two thousand five hundred ninety two & No/100 dollars (\$ *522,592.00). Such sum shall be payable to one, but not both, of the above-named agencies.

The principal estimated in the Mining and Reclamation Plan filed with the Division of Oil, Gas and Mining on the 18th day of August, 1985, that 11.5 acres of land will be disturbed by this mining operation in the State of Utah. A description of the disturbed land is attached hereto as Exhibit "A."

When the Division has determined that the principal has satisfactorily reclaimed the above-mentioned lands affected by mining in accordance with the approved Mining and Reclamation Plan and has faithfully performed all requirements of the Mined Land Reclamation Act, and complied with the Rules and Regulations adopted in accordance therewith, then this obligation shall be void; otherwise it shall remain in full force and effect until the reclamation is completed as outlined in the approved Mining and Reclamation Plan.

If the approved plan provides for reclamation of the land affected on a piecemeal or cyclic basis, and the land is reclaimed in accordance with such plan, then this bond may be reduced periodically.

In the converse, if the plan provides for a gradual increase in the area of the land affected or increased reclamation work, then this bond may accordingly be increased with the written approval of the surety company.

The Division shall only accept the bond of a surety company if the bond is noncancellable by the surety at any time for any reason including, but not limited to nonpayment of premium or bankruptcy of the permittee during the period of liability.

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NOTE: Where one signs by virtue of Power of Attorney for a surety company, such Power of Attorney must be filed with this bond. If the principal is a corporation, the bond shall be executed by its duly authorized officers with the seal of the corporation affixed.

SUNEDCO COAL CO.

Principal (Company)

By Robert W. Williams - Secretary
Company Official - Position

Date: 8/15/85

FEDERAL INSURANCE COMPANY

Surety (Company)

By Lorraine T. Masanis
Official of Surety - Position

Lorraine T. Masanis Attorney-in-Fact

DATE: 8/15/85

APPROVED AS TO FORM:

COUNTERSIGNED BY:

Norman D. Squires
Norman D. Squires, Utah Resident Agent
447 East First South
Salt Lake City, Utah 84111

By Assistant Attorney General

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AFFIDAVIT OF QUALIFICATION

Lorraine T. Masanis, being first duly sworn, on oath deposes and says that she is the (officer or agency) Attorney-in-Fact of said Company, and that she is duly authorized to execute and deliver the foregoing obligations; that said Company is authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations.

(Signed) Lorraine T. Masanis

Subscribed and sworn to before me this 15th day of August, 19 85.

Richard Adamczyk
Notary Public

My Commission Expires:

RICHARD ADAMCZYK, NOTARY PUBLIC.
PHILADELPHIA, PHILADELPHIA COUNTY
MY COMMISSION EXPIRES FEB. 8, 1988, 19 ____.
Member, Pennsylvania Association of Notaries

POWER OF ATTORNEY

Know all Men by these Presents, That the **FEDERAL INSURANCE COMPANY**, 15 Mountain View Road, Warren, New Jersey, a New Jersey Corporation, has constituted and appointed, and does hereby constitute and appoint **William G. Arnold, John H. Pooler, Jr., Joseph P. Burke, Walter J. Potter, Regina R. Bruno, Lorraine T. Masanis and Roy L. Wilson** of Philadelphia, Pennsylvania, each its true and lawful Attorney-in-Fact to execute under such designation in its name and to affix its corporate seal to and deliver for and on its behalf as surety thereon or otherwise, bonds of any of the following classes, to-wit:

1. Bonds and Undertakings filed in any suit, matter or proceeding in any Court, or filed with any Sheriff or Magistrate, for the doing or not doing of anything specified in such Bond or Undertaking.
2. Surety bonds to the United States of America or any agency thereof, including those required or permitted under the laws or regulations relating to Customs or Internal Revenue; License and Permit Bonds or other indemnity bonds under the laws, ordinances or regulations of any State, City, Town, Village, Board or other body or organization, public or private; bonds to Transportation Companies, Lost Instrument bonds; Lease bonds, Workers' Compensation bonds, Miscellaneous Surety bonds and bonds on behalf of Notaries Public, Sheriffs, Deputy Sheriffs and similar public officials.
3. Bonds on behalf of contractors in connection with bids, proposals or contracts.

In Witness Whereof, the said **FEDERAL INSURANCE COMPANY** has, pursuant to its By-Laws, caused these presents to be signed by its Assistant Vice-President and Assistant Secretary and its corporate seal to be hereto affixed this 1st day of January 19 84

Corporate Seal



Richard D. O'Connor
Richard D. O'Connor
Assistant Secretary

FEDERAL INSURANCE COMPANY

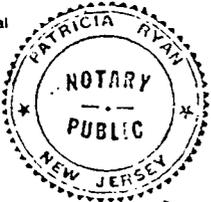
By

George McClellan
George McClellan
Assistant Vice-President

STATE OF NEW JERSEY }
County of Somerset } SS.

On this 1st day of January 19 84, before me personally came **Richard D. O'Connor** to me known and by me known to be Assistant Secretary of the **FEDERAL INSURANCE COMPANY**, the corporation described in and which executed the foregoing Power of Attorney, and the said **Richard D. O'Connor** being by me duly sworn, did depose and say that he is Assistant Secretary of the **FEDERAL INSURANCE COMPANY** and knows the corporate seal thereof; that the seal affixed to the foregoing Power of Attorney is such corporate seal and was thereto affixed by authority of the By-Laws of said Company, and that he signed said Power of Attorney as Assistant Secretary of said Company by like authority; and that he is acquainted with **George McClellan** and knows him to be the Assistant Vice-President of said Company, and that the signature of said **George McClellan** subscribed to said Power of Attorney is in the genuine handwriting of said **George McClellan** and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Notarial Seal



STATE OF NEW JERSEY }
County of Somerset } SS.

Acknowledged and Sworn to before me
on the date above written.

Patricia Ryan
Notary Public

CERTIFICATION

PATRICIA RYAN

NOTARY PUBLIC OF NEW JERSEY

My Commission Expires December 11, 1938

I, the undersigned, Assistant Secretary of the **FEDERAL INSURANCE COMPANY**, do hereby certify that the following is a true excerpt from the By-Laws of the said Company as adopted by its Board of Directors on March 11, 1953 and most recently amended March 11, 1983 and that this By-Law is in full force and effect.

"ARTICLE XVIII.

Section 2 All bonds, undertakings, contracts and other instruments other than as above for and on behalf of the Company which it is authorized by law or its charter to execute, may and shall be executed in the name and on behalf of the Company either by the Chairman or the Vice-Chairman or the President or a Vice-President, jointly with the Secretary or an Assistant Secretary, under their respective designations, except that any one or more officers or attorneys-in-fact designated in any resolution of the Board of Directors or the Executive Committee, or in any power of attorney executed as provided for in Section 3 below, may execute any such bond, undertaking or other obligation as provided in such resolution or power of attorney.

Section 3. All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the Vice-Chairman or the President or a Vice-President or an Assistant Vice-President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed.

I further certify that said **FEDERAL INSURANCE COMPANY** is duly licensed to transact fidelity and surety business in each of the States of the United States of America, District of Columbia, Puerto Rico, and each of the Provinces of Canada with the exception of Prince Edward Island, and is also duly licensed to become sole surety on bonds, undertakings, etc., permitted or required by law.

I, the undersigned Assistant Secretary of **FEDERAL INSURANCE COMPANY**, do hereby certify that the foregoing Power of Attorney is in full force and effect.

Given under my hand and the seal of said Company at Warren, N.J., this 15th day of August 19 85

Corporate Seal



William G. Arnold
Assistant Secretary