

DRH

0015



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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September 30, 1996

TO: File

THROUGH: Daron Haddock, Permit Supervisor *DRH*

FROM: Paul Baker, Reclamation Biologist *PRB*

Re: Alkali Creek Lease, Soldier Creek Coal Company, Soldier Canyon Mine, ACT/007/018, Folder #2, Carbon County, Utah

## SYNOPSIS

On May 31, 1996, the Division received a proposal from Soldier Creek Coal Company to expand its permit area by about 2535 acres including the previously permitted Alkali Lease Incidental Boundary Change. This includes adding the Alkali Creek Lease, two areas of fee coal to the west of the current permit area, and deleting about 600 acres from the north part of the permit area. A revised proposal was received September 25, 1996.

## ANALYSIS

### IDENTIFICATION OF INTERESTS

Regulatory Reference: R645-301-112

#### Analysis:

The applicant and operator are both Soldier Creek Coal Company. Soldier Creek Coal Company is owned by Sage Point Coal Company which is a wholly owned subsidiary of Coastal States Energy Company. The resident agent is C. T. Corporation Systems of Houston, Texas.

The application shows the officers and directors of Soldier Creek Coal Company and its parent and affiliated companies. The Division needs to check this information in the Applicator Violator System.

The application is required to contain the names and addresses of all owners of record



of surface and mineral property both within and contiguous to the proposed permit area. Revised Map 1.12-1 shows surface ownership in the current and proposed permit area and includes contiguous areas. However, the plan does not include addresses for all entities owning surface property within and contiguous to the proposed permit area. According to Map 1.12-1, Dave Cave and others, Funnon Shimmin, and John Frederick Artman own land contiguous to the permit area, but they are not shown in the text of the application.

The mineral ownership information may need to be revised. According to the plan, the only legal or equitable owners of the coal to be mined are the United States government, the State of Utah, and Sage Point Coal Company. The text says these and Louise Iriart are the owners of coal contiguous to the proposed permit area. However, according to the new Map 1.12-2, it does not appear Louise Iriart owns coal rights contiguous to the permit area.

Previous versions of Map 1.12-2, including the map in the approved plan, show a portion of land in Section 9, Township 13 South, Range 11 East, where Sage Point Coal Company own coal rights. However, according to Map 1.12-2 in the latest submittal, the United States government owns the coal rights in this area contiguous to the proposed addition to the permit area. If this is correct, no changes need to be made, but if Sage Point owns and has leased the coal rights to Andalex, the application needs to be corrected accordingly.

MSHA numbers are shown in Section 1.12.7 of the application.

### **Findings:**

Information provided in the proposal does not meet all of the minimum regulatory requirements of this section. Prior to final approval, the applicant must provide the following:

1. The application needs to show the names and addresses of all owners of record of surface and mineral property within and contiguous to the proposed permit area.

### **VIOLATION INFORMATION**

Regulatory Reference: R645-301-113

### **Analysis:**

The applicant submitted new violation information with this application. Neither the applicant nor any of its subsidiaries, affiliates, or persons controlled by or under common control with the applicant has had a federal or state mining permit suspended or revoked in

the last five years.

With the updated ownership and control information, the application includes bond forfeiture information about sixteen operations of Virginia Iron, Coal and Coke Company. Settlement agreements have been reached with the Virginia Division of Mined Land Reclamation for several of these operations. The Division needs to check through the Applicator Violator System to ensure the applicant is eligible to receive a permit.

**Findings:**

Information provided in the proposal meets all of the minimum regulatory requirements of this section.

**RIGHT OF ENTRY**

Regulatory Reference: R645-301-114

The current plan shows right of entry information for the existing and the proposed permit areas.

Most of Section 32, Township 12 South, Range 12 East, is currently in the permit area. The applicant intends to delete this section from the permit area.. However, according to annual reports, Soldier Creek mined about 5.6 acres within this section in 1992 and 1993. The regulations do not appear to address the issue of deleting a portion of an underground mine from a permit area. Logically, the Division should ensure that all commitments relative to subsidence monitoring and water monitoring, particularly any underground water monitoring, have been fulfilled for the area. The Division should also make a finding that no further monitoring is needed. Because the portion of this section that was mined is relatively small and because it was not second-mined, it should be possible to make these findings.

Except for 40 acres, the coal rights in Section 32 are owned by the State of Utah and are in leases ML-22675 and 21994. The application contains letters from the Division of School and Institutional Trust Lands Administration indicating relinquishment of these leases has been approved.

**Findings:**

Information provided in the proposal meets all of the minimum regulatory requirements of this section.

The applicant has proposed deleting a portion of the permit area. Before deleting this

area, the Division needs to ensure that all appropriate monitoring and other requirements have been met.

## **UNSUITABILITY CLAIMS**

Regulatory Reference: R645-301-115

### **Analysis:**

The proposed expansion area is not within an area designated or under study for designation as an area unsuitable for mining. The Bureau of Land Management's environmental assessment says the unsuitability criteria for coal mining have been applied in the land use planning process and may receive further application in the process of reviewing and approving the mining plan. Granting the lease was found to be in conformance with the Price River Resource Management Framework Plan.

The permittee has permission to operate within 100 feet of the county road in the surface operations area.

The application states there are no public roads and no occupied dwellings within the area proposed to be added to the permit area in the Alkali Tract significant revision. While there is a road in the Coal Creek area, it is apparently not a public road. The applicant owns the surface of the land in the area.

### **Findings:**

Information provided in the proposal meets all of the minimum regulatory requirements of this section.

## **INSURANCE AND PROOF OF PUBLICATION**

Regulatory Reference: R645-301-117

### **Analysis:**

The Division has on file a copy of a certificate of insurance for the Soldier Canyon Mine.

After the Division determines the application administratively complete and the applicant has advertised the proposed revision in a newspaper for four consecutive weeks, the applicant will need to submit a proof of publication.

**Findings:**

Information regarding the requirements of this section of the regulations was found to meet the minimum regulatory requirements. After the applicant has advertised the proposed revision, the applicant will need to submit a proof of publication.

**VEGETATION INFORMATION**

Regulatory Reference: R645-301-321

**Analysis:**

The application is for underground mine development for which no additional vegetation information is required. The applicant has committed to take aerial photographs to monitor the effects of underground mining on vegetation. This commitment was made primarily to fulfill the requirements of a stipulation in the federal coal leases.

**Findings:**

Information provided in the proposal meets minimum regulatory requirements of this section.

**FISH AND WILDLIFE RESOURCE INFORMATION**

Regulatory Reference: R645-301-322

**Analysis:**

**Fish and Wildlife Information**

The applicant submitted updated versions of three wildlife maps with the Alkali Lease Tract revision. Drawing 3.10-2 shows raptor nests, riparian zones, and spring locations in the current and proposed permit areas and in nearby areas. There are several raptor nest locations within the proposed addition to the permit area.

Drawing 3.10-3 is a game bird and lagomorph distribution map. This map shows critical habitat for sage grouse in the northern part of the current and proposed permit areas.

Big game distributions are shown on Drawing 3.10-4. Nearly all of the existing and proposed permit areas contain high priority habitat for elk or mule deer. The only critical big game habitat is in the area of the sewage lagoons and lower topsoil storage area. Wildlife

Resources has confirmed that these areas are used heavily by wintering deer and that the areas are truly critical for maintenance of the local deer population.

### **Threatened and Endangered Species**

The application includes no new threatened or endangered species information. Most of the surface of the proposed addition to the permit area is owned by Louise Iriart or Sage Point Coal Company. Small portions of the proposed permit area are managed by the Bureau of Land Management, and the Division needs to receive comments from the Fish and Wildlife Service about these areas.

The most likely threatened, endangered, proposed or candidate species to be in the proposed addition to the permit area is canyon sweetvetch. It is extremely unlikely this species would be affected by underground mining operations. It is possible it could occur in breakouts that might be built in the future. The species has no protection on private land, but the Bureau of Land Management does give it some protection on their lands. No new information is required at this time, but some baseline information may be required when the breakouts are proposed.

Other species with some potential of being affected include bald eagles, peregrine falcons, and the threatened and endangered fish of the Colorado River. No peregrine falcons were found in the raptor survey. Bald eagles frequent the general area in the winter, but they are usually found roosting in trees at lower elevations, especially near water. No bald eagle nest sites are known to occur in the proposed addition to the permit area.

The Fish and Wildlife Service has determined that water depletions in the Upper Colorado River Basin may affect certain threatened and endangered fish of this area. For this reason, they require a mitigation fee for water use in excess of 100 acre feet per year. As documented in Figure 7.28-20 in the application, annual water usage in the mine from 1985 to 1991 averaged about 41 acre feet. This includes losses from evaporation and water added to coal.

The amount of water used in conjunction with mining is not expected to increase substantially with addition of the Alkali Tract. In addition, as documented in the Probable Hydrologic Consequences document, there is little effect on surface water caused by use of water encountered in the mine. Nearly all of the water used in the mine is from perched aquifers not associated with surface flow. Therefore, since water use is less than 100 acre feet per year and since use is not expected to increase, no mitigation should be required.

### **Findings:**

Information provided in the proposal meets all of the minimum regulatory

requirements of this section.

It is unlikely the proposed permit revision would have any effect on any threatened, endangered, proposed or candidate species, including the threatened and endangered fish of the Upper Colorado River Basin.

## **FISH AND WILDLIFE PROTECTION PLAN**

Regulatory Reference: R645-301-333

### **Analysis:**

No changes to the fish and wildlife protection plan were included with the Alkali Tract permit revision. The following provisions are included in the current mining and reclamation plan.

If significant subsidence occurs or is about to occur during the April to July period of any year, a nesting survey will be completed to determine if any nesting raptors are in the potential area of impact. Major earthwork and blasting will be avoided during certain hours in May and June. Any subsidence cracks which could cause injury or death to livestock or wildlife will be repaired.

It is very unlikely any critical big game or sage grouse range would be adversely affected by the proposed expansion to the mining operations. There are a few areas of critical sage grouse range that overlap the subsidence buffer zone in Sections 1 and 2 of Township 13 South, Range 11 East. However, even if subsidence does occur in these areas, there is little chance of it damaging a grouse nest.

In the southwest quarter of Section 12 and the southeast quarter of Section 11, Township 13 South, Range 11 East, there are four golden eagle nests identified on Drawing 3.10-2. These nests are all in areas where second mining is planned as shown on Exhibit 5.25-1. Although it is unlikely, these nests could potentially be damaged or destroyed if subsidence occurred. The applicant will need to follow through with its commitments to monitor nests during periods when subsidence could occur.

### **Findings:**

Information regarding the requirements of this section of the regulations was found to meet the minimum regulatory requirements.

## **REVEGETATION**

Regulatory Reference: R645-301-340

### **Analysis:**

The current mining and reclamation plan contains final revegetation plans for the mine facilities area, and no further surface disturbance is currently proposed.

### **Findings:**

Information regarding the requirements of this section of the regulations was found to meet the minimum regulatory requirements

## **HISTORIC AND ARCHAEOLOGICAL RESOURCE INFORMATION**

Regulatory Reference: R645-301-412.140

### **Analysis:**

The application includes no new historic or archaeological resource information. A cultural resource evaluation of most of the area proposed to be included in the permit area was previously included in the plan. Two isolated artifacts were discovered in the evaluation, but these were not considered significant. Based on the lack of sites and no above-ground disturbance, the Division of State History concurred with issuing the permit for the Alkali Incidental Boundary Change.

The cultural resource survey included most, but not all, of the area proposed to be added to the permit area. The west half of Section 10, Township 13 South Range 11 East, was not included in the survey. This area includes the bottom of Coal Creek Canyon and the Knight Ideal Mine which could theoretically contain cultural resource sites. However, according to Exhibit 5.21-5, the applicant plans no surface or subsurface activities in this area.

Based on the information in the plan and the fact that no mining is proposed for the area that was not surveyed, the Division should recommend that the Division of State History give its clearance for mining the area.

### **Findings:**

Information regarding the requirements of this section of the regulations was found to meet the minimum regulatory requirements. Based on the information in the plan and the fact that no mining is proposed for the area that was not surveyed, the Division should recommend

that the Division of State History give its clearance for mining the area. Additional cultural resource information will be required if the applicant proposes to mine in the west half of Section 10, Township 13 South Range 11 East.

## **LAND USE RESOURCE INFORMATION**

Regulatory Reference: R645-301-112

### **Analysis:**

Drawing 4.11-1 shows grazing allotments, abandoned croplands, Carbon County zoning, and mine development in the area of the current and proposed permit areas. The current mining and reclamation plan contains descriptions of the current and potential uses of the land in compliance with regulatory requirements.

### **Findings:**

The applicant has complied with the requirements of this section of the regulations.

## **PROTECTION OF PUBLIC PARKS AND HISTORIC PLACES**

Regulatory Reference: R645-301-411.144

### **Analysis:**

There are no public parks or known sites eligible for listing in the National Register of Historic Places within the proposed permit or adjacent areas.

### **Findings:**

Information regarding this section meets minimum regulatory requirements.

## **POSTMINING LAND USE**

Regulatory Reference: R645-301-413

### **Analysis:**

No changes to the approved postmining land use were included with the Alkali Tract revision. There are no owners of surface land that are not already included in the permit area.

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The plan contains comments about the postmining land use from these entities.

**Findings:**

The applicant has complied with the requirements of this portion of the regulations.

**RECOMMENDATIONS**

This revision should not be approved until the deficiencies discussed in this memorandum are adequately addressed.