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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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August 5, 1996

TO: File

THROUGH: Daron Haddock, Permit Supervisor *DH*

FROM: Paul Baker, Reclamation Biologist *PB*

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.

Land ownership information needs to be further updated and clarified. Also, part of the area proposed to be added to the permit area is already within the permit area of Andalex Resources' Centennial Project.

One of the mine sequence drawings shows a breakout that would be built in 1996. The application needs to contain some basic vegetation information about this area so the applicability of the current revegetation plan can be evaluated.

ANALYSIS

IDENTIFICATION OF INTERESTS

Regulatory Reference: R645-301-112

Analysis:

The applicant and operator are both Soldier Creek Coal Company. Soldier Creek Coal



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Company is owned by Sage Point Coal Company which is a wholly owned subsidiary of Coastal States Energy Company.

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.

Normally, the Division would rely on much of the information in the current mining and reclamation plan for information required to be in this section of the plan or application. However, it appears the updated information is intended to supersede what is now in the plan. Therefore, it is not complete. The application does not show the person responsible for paying the abandoned mine reclamation fee, and it does not show the resident agent.

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.

The mineral ownership information needs 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. These and Louise Iriart are the owners of coal contiguous to the proposed permit area.

The applicant needs to differentiate between mineral owners and lessees. Where the applicant has a right to enter and begin mining operations, it is assumed the applicant either owns or leases the coal. The applicant leases coal from governments entities, but the plan and application do not show who actually owns the mineral rights in areas with fee coal. For example, on page 1-90, the current application says, “. . . all coal reserves in the state of Utah formerly owned or leased by Sunedco are now owned or leased by Sa[g]e Point Coal Company.” This statement does not show clearly who owns the mineral rights. The application needs to show who owns the coal in these areas.

In the application, the bond forfeiture list ends on page 1-68, but in the current plan, information from a new section after the bond forfeiture list begins on page 1-61. The application and the plan need to be paginated so they do not overlap.

MSHA numbers are shown in Section 1.12.7 of the current plan, but this is a portion of the current plan that overlaps with the application. The plan contains a statement of all lands, interest in lands, options, or pending bids on interests held or made by the applicant for lands contiguous to the area. Again, however, this page overlaps with a page in 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.
2. The application needs to be formatted in a way that is does not supersede essential information in the current plan. Some pages in the application would overlap with the current plan and eliminate some needed information.

VIOLATION INFORMATION

Regulatory Reference: R645-301-113

Analysis:

The applicant did not submit new violation information with this application. This information was last updated January 26, 1994, and incorporated in the plan May 6, 1994. The violation information needs to be updated for this significant revision.

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

1. The applicant needs to update violation information in the application.

RIGHT OF ENTRY

Regulatory Reference: R645-301-114

The current plan shows right of entry information for the existing and most of the

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.

According to the Land Use Map, Drawing 4.11-1, submitted with the application, there is a road within the proposed addition to the permit area. This road is on land owned by Sage Point Coal Company, a parent company of the applicant, in Coal Creek Canyon in the area of the Knight-Ideal Mine. However, this road could, presumably, be used by other land owners in the area and could be a public road. The application should discuss the use of this road, whether it is a public road, and what effects mining could have on the road. If it is considered a public road, the applicant should note this in its newspaper advertisement.

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 contain a discussion of the road through Coal Creek Canyon in the area of the Knight-Ideal Mine. It should include some information about use of this road and whether it is a public road. It should also show any effects mining could have on the road.

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 primarily 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.

According to Exhibit 5.21-5, the mine plan for the Rock Canyon Seam, a breakout is planned for 1996 and another for 1999. Since the first of these breakouts is planned for within the current permit term, the application needs to contain vegetation information about this proposed disturbance. It is probably possible to correlate the vegetation community of the area that would be disturbed with a vegetation community already described in the mining and reclamation plan. This might be done by discussing the soil type and range site associated with the area that would be disturbed and showing they are similar to what is described in the plan. If the area that would be disturbed is in a completely different community, a full set of vegetation cover, density, and productivity information could be required.

The applicant should plan to include in the permit renewal package vegetation information needed for the planned 1999 breakout.

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 include information about the vegetation in the area of the planned 1996 breakout. This could be in the form of information that would correlate vegetation at the breakout site with vegetation at the main mine facilities.

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 and does not require comment from the Fish and Wildlife Service concerning threatened or endangered species. Small portions of the proposed permit area are managed by the Bureau of Land Management, and the Division needs to receive comments 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 the areas where breakouts are planned. The species has no protection on private land, but the Bureau of Land Management does give it some protection on their lands. One of the breakouts would be on private land, but the other would be on federal land.

It would be easy to search for this species when checking the vegetation or soils in the proposed breakout areas. If it was found, the applicant could take steps to avoid it or to mitigate for any plants that would be destroyed.

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 use in excess of 100 acre feet per year. Annual water usage in the mine from 1985 to 1991 averaged about 41 acre feet per year. 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.

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 applicant needs to provide information about whether canyon sweetvetch occurs in the areas of the proposed breakouts.

It is unlikely the proposed permit revision would have any effect on any other 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, but it is unknown if these plans are appropriate for the breakout areas. Until the Division receives information about vegetation at the breakouts, it is impossible to evaluate whether the existing revegetation plan can be applied to these areas.

Findings:

It is impossible to evaluate the revegetation plan without baseline vegetation information.

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 would 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 is adequate.

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. 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.