

0020



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

INSPECTION REPORT

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5340
(801) 359-3940 (Fax)

Partial: XXX Complete: Exploration:

Inspection Date & Time: 3/30/98 / 10:00a.m.-12:00p.m.

Date of Last Inspection: 2/26/98

Mine Name: Soldier Canyon Mine County: Carbon Permit Number: ACT/007/018
Permittee and/or Operator's Name: Canyon Fuel Company
Business Address: P.O. Box 1029, Wellington, Utah 84542
Type of Mining Activity: Underground XXX Surface Prep. Plant Other
Company Official(s): Dave Spillman
State Officials(s): Peter Hess Federal Official(s): None
Weather Conditions: Overcast, Flurries during inspection
Existing Acreage: Permitted- 5186.17 Disturbed- 24 Regraded- 0 Seeded- 0 Bonded- 95.2
Increased/Decreased: Permitted- Disturbed- Regraded- Seeded- Bonded-
Status: Exploration/ XXX Active/ Inactive/ Temporary Cessation/ Bond Forfeiture
Reclamation (Phase I/ Phase II/ Final Bond Release/ Liability Year)

REVIEW OF PERMIT, PERFORMANCE STANDARDS & PERMIT CONDITION REQUIREMENTS

Instructions

- Substantiate the elements on this inspection by checking the appropriate performance standard.
 - For complete inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check N/A.
 - For partial inspections check only the elements evaluated.
- Document any noncompliance situation by referencing the NOV issued at the appropriate performance standard listed below.
- Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
- Provide a brief status report for all pending enforcement actions, permit conditions, Division Orders, and amendments.

	EVALUATED	N/A	COMMENTS	NOV/ENF
1. PERMITS, CHANGE, TRANSFER, RENEWAL, SALE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. SIGNS AND MARKERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. TOPSOIL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. HYDROLOGIC BALANCE:				
a. DIVERSIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. SEDIMENT PONDS AND IMPOUNDMENTS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. OTHER SEDIMENT CONTROL MEASURES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. WATER MONITORING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. EFFLUENT LIMITATIONS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. EXPLOSIVES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. DISPOSAL OF EXCESS SPOIL/FILLS/BENCHES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. COAL MINE WASTE/REFUSE PILES/IMPOUNDMENTS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. NONCOAL WASTE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. SLIDES AND OTHER DAMAGE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. CONTEMPORANEOUS RECLAMATION	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. BACKFILLING AND GRADING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. REVEGETATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. SUBSIDENCE CONTROL	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. CESSATION OF OPERATIONS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. ROADS:				
a. CONSTRUCTION/MAINTENANCE/SURFACING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. DRAINAGE CONTROLS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. OTHER TRANSPORTATION FACILITIES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. SUPPORT FACILITIES/UTILITY INSTALLATIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. AVS CHECK (4th Quarter-April, May, June)_____ (date)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. AIR QUALITY PERMIT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. BONDING & INSURANCE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>





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DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
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801-538-7223 (TDD)

March 27, 1998

To: Mary Ann Wright, Associate Director, Mining

From: Pamela Grubaugh-Littig, Permit Supervisor 

Re: Attorney General Review Requested, Insurance - Explosives Coverage, Canyon Fuel Company, LLC, Skyline Mine, ACT/007/005, Soldier Canyon Mine, ACT/007/018, Banning Loadout, ACT/007/034, Dugout Canyon Mine, ACT/007/039, SUFCO Mine, ACT/041/002, Folder #3, Carbon and Sevier Counties, Utah

There have been some questions recently about the "Explosives vs. Explosion" language in the coverage for public liability insurance. Most of the Certificates of Insurance for coal mining operations note "XCU" on the certificate which, I believe, has met the requirements of R645-301-890.100 (attached).

On a recent inspection at Skyline Mine, Steve Demczak, Division inspector, asked Chris Hansen from Canyon Fuel Company, LLC about the terms on their Certificate of Insurance "Explosion & Collapse Hazard Underground and Surface". Chris Hansen called me about this and I told him that I would look into the situation. I faxed Kerry Frame, also with Canyon Fuel Company, LLC, a copy of our regulations.

Today, Mr. Frame faxed me a memo that he sent to their Insurance Division Administrator, (attached). The rule (R645-301-890.100) states that, "Such policy will provide for personal injury and property damage protection in an amount adequate to compensate any persons injured or property damaged as a result of the coal mining and reclamation operation, including the use of explosives and **who are entitled to compensation under the applicable provision of state law.**"

The Insurance Division Administrator in speaking to Mr. Frame stated that "it may be that the applicable state law contains limiting language to minimize those who would be eligible; in which case the coverage would be strengthened. However, she does not know but what the state law language that applies which may broaden entitlement of the general public such that other parties not directly involved in an incident might be included." Without a copy of the state law in hand defining who is 'entitled', she cannot explicitly state that the requirements of the DOGM's rules are met."

In response to her questions I am requesting specific clarification is requested as to which other state law languages are referenced. Thank you.

Attachments

Canyon Fuel Company**Internal Correspondence**

Date: March 27, 1998
To: Chris Hansen
From: Kerry Frame
Subject: Explosives Insurance

I have enquired with Julia Fisher about our coverage for "use of explosives." She is the Insurance Division Administrator for Atlantic Richfield in Los Angeles.

She confirmed that our liability insurance x,c,u clause is three separate coverages. The "explosion" coverage extends to third parties that are injured as a result of our actions with the use of explosives -- whether on the surface or underground. For example, if we experienced a catastrophe as a result of an incident related to one of our powder magazines on our surface facilities, third party personal injuries and property damage would be covered up to amounts shown on the certificate. Of course, our own employees would be covered under our Worker's Compensation insurance.

Julia did have one concern, however, about the language under section R645-301-890.100 of the DOGM's regulations wherein it says "... and who are entitled to compensation under the applicable provisions of state law." It may be that the applicable state law contains limiting language to minimize those who would be eligible; in which case our coverage would be strengthened. However, she does not know but what the state law language may broaden entitlement to the general public such that other parties not directly involved in an incident might be included. Without a copy of the state law in hand defining who is "entitled", Julia can not explicitly state that we meet this requirement of DOGM's rules. We need specific clarification from DOGM as to which other state law language they are referencing.

KAF

xc: Mike Davis
Julia Fisher
Jim Hunter
Rick Parkins
Wess Sorensen
Dave Spillman

1997 11:07AM

ARCO INSURANCE

NO. 0665 P. 2

DATE (MM/DD/YY)
03/28/97

PROD. CERTIFICATE OF INSURANCE

PRODUCER
 Johnson & Higgins of California
 Casualty Department
 2029 Century Park East
 Los Angeles, CA 90067
 Tel: (310) 851-4887
 U659A-UL6H OLIN

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY A INDEMNITY INSURANCE COMPANY OF NORTH AMERICA

COMPANY B

COMPANY C

COMPANY D

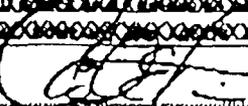
INSURED
 ATLANTIC RICHFIELD COMPANY, ITS
 SUBSIDIARIES AND SUBSIDIARIES
 INCLUDING CANYON FUEL COMPANY, LLC.
 6955 SOUTH UNION PARK CENTER
 SUITE 550
 MIDVALE, UTAH 84047

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO. LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMPREHENSIVE FORM <input checked="" type="checkbox"/> PREMIUM RATIO PLAN <input checked="" type="checkbox"/> UNDERGROUND EXPLOSION & COLLAPSE HAZARD <input checked="" type="checkbox"/> PRODUCTS/COMPLETED OPER <input checked="" type="checkbox"/> CONTRACTUAL <input checked="" type="checkbox"/> INDEPENDENT CONTRACTORS <input checked="" type="checkbox"/> BROAD FORM PROPERTY DAMAGE <input checked="" type="checkbox"/> PERSONAL INJURY	ISL 01-423200-0 Surface	12-20-86	01-01-89	BODILY INJURY OCC \$ N/A BODILY INJURY AGG \$ N/A PROPERTY DAMAGE OCC \$ N/A PROPERTY DAMAGE AGG \$ N/A BI & PD COMBINED OCC \$ 2,000,000 BI & PD COMBINED AGG \$ 4,000,000 PERSONAL INJURY AGG \$ N/A
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS (Private Passg) <input type="checkbox"/> ALL OWNED AUTOS (Other than Private Passenger) <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY				BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$ BODILY INJURY & PROPERTY DAMAGE COMBINED \$
	CROSS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$ STATUTORY LIMITS \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR, PARTNER/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INC. <input type="checkbox"/> EXCL. OTHER				EACH ACCIDENT \$ DECADRE POLICY LIMIT \$ DISEASE - EACH EMPLOYEE \$

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS (LIMITS MAY BE SUBJECT TO RETENTIONS)
 SKYLINE MINE IS INCLUDED AS A NAMED INSURED UNDER THE REFERENCED POLICY(S) AS RESPECTS TO PERMIT NO. ACT/007/005.
 THIS CERTIFICATE IS ISSUED IN LIEU OF CERTIFICATE DATED DECEMBER 18, 1996.

STATE OF UTAH
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL, GAS, AND MINING
 1694 WEST NORTH TEMPLE, SUITE 1210
 P.O. BOX 146801
 SALT LAKE CITY, UTAH 84114-5801

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~30~~ 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.
 AUTHORIZED REPRESENTATIVE 

public hearing will be held in the locality of the coal mining and reclamation operations from which bond release is sought, or at the location of the Division office, at the option of the objector

880.700 For the purpose of the hearing under R645-301-880.600, the Division will have the authority to administer oaths, subpoena witnesses or written or printed material, compel the attendance of witnesses or the production of materials and take evidence including, but not limited to, inspection of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim record of each public hearing will be made and a transcript will be made available on the motion of any party or by order of the Division.

880.800. Without prejudice to the right of an objector or the applicant, the Division may hold an informal conference as provided in UCA 40-10-13(a) of the Act to resolve such written objections. The Division will make a record of the informal conference unless waived by all parties, which will be accessible to all parties. The Division will also furnish all parties of the informal conference with a written finding of the Division based on the informal conference and the reasons for said finding

880.900. Forfeiture of Bonds.

880.910. If an operator refuses or is unable to conduct reclamation of an unabated violation, if the terms of the permit are not met, or if the operator defaults on the conditions under which the bond was accepted, the Division will take the following action to forfeit all or part of a bond or bonds for any permit area or an increment of a permit area:

880.911. Send written notification by certified mail, return receipt requested, to the permittee and the surety on the bond, if any, informing them of the determination to forfeit all or part of the bond including the reasons for the forfeiture and the amount to be forfeited. The amount will be based on the estimated total cost of achieving the reclamation plan requirements;

880.912. Advise the permittee and surety, if applicable, of the conditions under which forfeiture may be avoided. Such conditions may include, but are not limited to:

880.912.1. Agreement by the permittee or another party to perform reclamation operations in accordance with a compliance schedule which meets the conditions of the permit, the reclamation plan and the State Program and a demonstration that such party has the ability to satisfy the conditions; or

880.912.2. The Division may allow a surety to complete the reclamation plan, or the portion of the reclamation plan applicable to the bonded phase or increment, if the surety can demonstrate an ability to complete the reclamation in accordance with the approved reclamation plan. Except where the Division may approve partial release authorized under R645-301-880.100 through R645-301-880.800, no surety liability will be released until successful completion of all reclamation under the terms of the permit, including applicable liability periods of R645-301-820.300.

880.920. In the event forfeiture of the bond is required by this section, the Division will:

880.921 Proceed to collect the forfeited amount as provided by applicable laws for the collection of defaulted bonds or other debts if actions to avoid forfeiture have not been taken, or if rights of appeal, if any, have not been exercised within a time established by the Division, or if such appeal, if taken, is unsuccessful; and

880.922 Use funds collected from bond forfeiture to complete the reclamation plan, or portion thereof, on the permit area or increment, to which bond coverage applies.

880.930 Upon default, the Division may cause the forfeiture of any and all bonds deposited to complete reclamation for which the bonds were posted. Bond liability will extend to the entire permit area under conditions of forfeiture.

880.931 In the event the estimated amount forfeited is insufficient to pay for the full cost of reclamation, the operator will be liable for remaining costs. The Division may complete, or authorize completion of, reclamation of the bonded area and may recover from the operator all costs of reclamation in excess of the amount forfeited.

880.932 In the event the amount of performance bond forfeited was more than the amount necessary to complete reclamation, the unused funds will be returned by the Division to the party from whom they were collected.

890. Terms and Conditions for Liability Insurance.

890.100 The Division will require the applicant to submit as part of its permit application a certificate issued by an insurance company authorized to do business in Utah certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation activities for which the permit is sought. Such policy will provide for personal injury and property damage protection in an amount adequate to compensate any persons injured or property damaged as a result of the coal mining and reclamation operations, including the use of explosives and who are entitled to compensation under the applicable provisions of state law. Minimum insurance coverage for bodily injury and property damage will be \$300,000 for each occurrence and \$500,000 aggregate.

890.200. The policy will be maintained in full force during the life of the permit or any renewal thereof, including the liability period necessary to complete all reclamation operations under this chapter.

890.300. The policy will include a rider requiring that the insurer notify the Division whenever substantive changes are made in the policy including any termination or failure to renew.

890.400. The Division may accept from the applicant, in lieu of a certificate for a public liability insurance policy, satisfactory evidence from the applicant that it satisfies applicable state self-insurance requirements approved as part of the State Program and the requirements of R645-301-890.100 through R645-301-890.300.

KEY: reclamation, coal mines
December 18, 1995

40-10-1 et seq.

Kerry Frame

FAX 801-569-4799

*Kerry Frame give 3/27
all ...*