

TECHNICAL ANALYSIS

Utah Coal Regulatory Program

November 22, 2004

OK

TO: Internal File

FROM: James D. Smith, Environmental Specialist and Team Lead *DS*

RE: Midterm Review, Canyon Fuel Company, LLC, Soldier Canyon Mine, C/007/0018, Task ID #692

SUMMARY:

In accordance with R645-303-211, the Division is required to review each active permit during its term. The Soldier Canyon Mine went into temporary cessation on March 25, 1999, but the permit is active.

The Division initiated a midterm review of the Soldier Canyon Mine via correspondence with Rick Olsen of Canyon Fuel Company on October 22, 2004. The portals were temporarily sealed. The letter outlined six elements for the review. Dana Dean has addressed items 1, 3, and 4, and Wayne Western has done item 5. Item 6 is a team inspection of the site, but because this mine is inactive, the team decided not to conduct an inspection for the mid-term review. This memo addresses items 1 and 2:

- 1. An AVS check to ensure that Ownership and Control information is current and correct.*
- 2. A review to ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program, which have occurred subsequent to permit approval (One area of emphasis is to ensure compliance with the U. S. Fish and Wildlife Windy Gap Process).*

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GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

On July 31, 2004, Arch Coal, Inc. consummated its purchase of the 35% membership interest in Canyon Fuel Company, LLC owned by Itochu Coal International, Inc. The remaining 65% membership interest in Canyon Fuel is held by the Arch Coal, Inc.'s subsidiary, Arch Western Bituminous Group LLC. Ownership and control information in the MRP still shows Itochu Coal International, Inc. as owning an interest in the Soldier Canyon Mine.

Findings:

Identification Of Interests information is not sufficient to meet the requirements of the Coal Mining Rules. Before the Division can approve the mid-term review, the Permittee must provide the following information in accordance with:

R645-301-112, The Permittee needs to update the Identification of Interests information in the MRP.

VIOLATION INFORMATION

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

Analysis:

An AVS report dated November 15, 2004 showed one linking entity, Bennett Hatfield, who is excluded from all violations of two coal-mining operations in Kentucky. The Division is in the process of updating AVS information for Canyon Fuel Co., LLC to reflect the recent acquisition of the interests of Itochu Coal International, Inc by Arch Western Resources, LLC.

Findings:

According to the AVS check, the Permittee and associated persons are not currently in violation of any law, rule, or regulation identified or referred to in the R645 Coal Rules.

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Wetlands and Habitats of Unusually High Value for Fish and Wildlife

Adverse effects of mining on water quantity to the Colorado River drainages affect four Colorado River endangered fish species (Colorado pikeminnow, humpback chub, bonytail chub, and razorback sucker). The USFWS considers depletions or changes to contributions to the Colorado River drainage as a potential jeopardy to these endangered fish. Water users may be required to mitigate if there are considerable changes to contributions or if water consumption is greater than 100 acre-feet per year. Currently, the mitigation fee is approximately \$16.00 per acre-foot of depletion, but may change marginally from year to year.

To address the possible adverse effects to these four fish species, the Permittee must first calculate the amount of water used or contributed by all mining operations. The Permittee may use the paper "Windy Gap Process As It Applies To Existing Coal Mines In The Upper Colorado River Basin" as a guideline. In brief, consumption values must at least include at least:

- Mining consumption
- Ventilation consumption
- Coal producing consumption
- Ventilation evaporation
- Sediment pond evaporation
- Springs and seep effects from subsidence
- Alluvial aquifer abstractions into mines
- Alluvial well pumpage
- Deep aquifer pumpage
- Postmining inflow to workings

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- Coal moisture loss
- Direct diversions, and
- Dust suppression (which is not mentioned in the Windy Gap Process document).

The Permittee must provide all equations and justifications with supporting documentation leading to the overall sum of water depletions or additions for all mining operations and explorations including dust control in the MRP section R645-301-333. (R645-301-322; -333.) The Permittee must resubmit water consumption calculations:

- If the original submittal was based on estimates prior to mining, submit actual values during the midterm review.
- If future changes in mining operations significantly change current total estimates, submit new values with amendment related to change in mining operations.

Figure 7.28-20 of the MRP shows estimated Evapotranspiration, Water Added to Coal, and mine (UPDES) Discharge. Other consumption values are not found in the MRP.

Findings:

Fish And Wildlife Information is not sufficient to meet the requirements of the Coal Mining Rules. Before the Division can approve the mid-term review, the Permittee must provide the following information in accordance with:

R645-301-333, As regards the Colorado River fish recovery program (a.k.a. the Windy Gap process), the Permittee must provide in the MRP all equations and justifications with supporting documentation leading to the overall sum of water depletions or additions for all mining operations and explorations, including dust control.

HYDROLOGIC INFORMATION

Regulatory Reference: 30 CFR Sec. 773.17, 774.13, 784.14, 784.16, 784.29, 817.41, 817.42, 817.43, 817.45, 817.49, 817.56, 817.57; R645-300-140, -300-141, -300-142, -300-143, -300-144, -300-145, -300-146, -300-147, -300-148, -301-512, -301-514, -301-521, -301-531, -301-532, -301-533, -301-536, -301-542, -301-720, -301-731, -301-732, -301-733, -301-742, -301-743, -301-750, -301-761, -301-764.

Analysis:

Water Replacement

The current permit for the Soldier Canyon Mine was renewed February 3, 2002. Utah Coal Mining Rule R645-301-731.530 for replacement of state-appropriated water supplies was

approved by OSM in December 2001, and implemented in the state program in August 2002. The current MRP does not contain a plan for water replacement in compliance with R645-301-731.530.

Findings:

Hydrologic Operation Information is not sufficient to meet the requirements of the Coal Mining Rules. Before the Division can approve the mid-term review, the Permittee must provide the following information in accordance with:

R645-301-731.530, The Permittee needs to add a water replacement plan to the MRP.

RECOMMENDATIONS:

The mid-term review has identified several areas where the permit is not in compliance with the R645 Coal Rules. The mid-term review cannot be completed until the MRP is in compliance with the R645 Coal Rules.