

TECHNICAL ANALYSIS

Utah Coal Regulatory Program

February 25, 2005

TO: Internal File

THRU: D. Wayne Hedberg, Permit Supervisor

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

RE: Midterm Review, Canyon Fuel Company, LLC, Soldier Canyon Mine, C/007/0018, Task ID #2126

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.

Findings:

Identification Of Interests information is sufficient to meet the requirements of the Coal Mining Rules.

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

Figure 7.28-20 of the MRP shows estimated Evapotranspiration, Water Added to Coal, and mine (UPDES) Discharge from 1985 to 1991. The Permittee has listed current water

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depletions or additions for mining operations in Section R645-301-333 of the MRP. (R645-301-322; -333.): because the mine has been in temporary cessation since March 1999, there is currently no water consumption. Future changes in mining operations will require significant revision of these estimates, and the Permittee will need to submit new values related to changes in mine operations.

Findings:

Fish And Wildlife Information regarding mine water consumption and the Colorado Fish Recovery Program is sufficient to meet the requirements of the Coal Mining Rules.

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, -300-147, -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. This rule, along with R645-301-525.480, requires that the MRP have a plan in-place which can be implemented for prompt replacement of affected State-appropriated water supplies, in other words, an executable mitigation plan is to be in place before there is a problem.

Section 7.27 of the MRP states that any adverse affects to water rights will be reported to the Division of Water Rights and mitigation measures will be identified and implemented. In Section 7.31.8, the Permittee states it has sufficient water rights (identified in Appendix 7-1 and on Plate 7-2) to assure replacement of water sources impacted by mining, and commits to use those water rights to replace water supplies contaminated, diminished, or interrupted as a result of the Soldier Canyon Mine operations. The Permittee's commitment specifies landowners, but the Coal Mining Rules apply this commitment to all holders of water rights.

Findings:

Hydrologic Operation Information is sufficient to meet the requirements of the Coal Mining Rules.

RECOMMENDATIONS:

The mid-term review initially identified several areas where the permit was not in compliance with the R645 Coal Rules. The Permittee provided an amendment with information sufficient to bring the MRP into compliance with the Rules. The Division should approve that amendment and the mid-term review.

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