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STATE OF UTAH
NATURAL RESOURCES & ENERGY
Oil, Gas & Mining

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Cleon B. Feight, Division Director

4241 State Office Building • Salt Lake City, UT 84114 • 801-533-5771

March 29, 1983

REGISTERED RETURN RECEIPT REQUESTED

POS 7075454

Mr. Dan Guy
Beaver Creek Coal Company
P.O. Box AU
Price, Utah 84501

RE: C. V. Spur Permits
ACT/007/022
Folder No.'s 3 & 7
Carbon County, Utah

Dear Mr. Guy:

As you know, a review of the permits for C. V. Spur on March 16, 1983 detected several deficiencies for on-site facilities and operations. In particular we examined the validity of the permits for the western extension of the refuse pile and for the Trail Mountain truck dump and stacking tube.

The MR Forms 1 & 2 submitted October 23, 1979 and September 24, 1979 were verbally approved in 1979. This interim program approval was later documented in a letter dated September 24, 1981. The area of the western extension of the refuse pile is included in the 90 - 100 acres specified as the affected area in the MR 1 and is included in the MR 2 within a area specified for future disturbance. The proposed use of the future disturbed area was not clearly designated in the MR 2. In October 1981 the permit was modified to designate a use of the north end of the future disturbed area. Current operations on the west end of the future disturbed area should also be specified in an addendum to the approved plan. A commitment to a plan of operation that conforms with the requirements of UMC 817.81 - .87 should be provided for the new operation. The new dimensions required for spreading the refuse should be specified (please observe that the present dimensions of the refuse disposal area are already over the bounds of those specified in the permanent program application). The final configuration of the refuse pile should then be determined demonstrating that a long term 1.5 static safety factor can be achieved. The sub-drainage system described in the MR 2 does not extend along the western end of the refuse area. Has this system been modified to divert water away from the new disposal area? If not, is the structural integrity of the waste bank and the long term protection of water quality insured? Allegedly topsoil was removed during preparation of the site in the fall of 1980, although the volume of topsoil removed from the western extension has not been determined. A plan for reclamation of the refuse area

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should be compiled demonstrating that the amount of subsoil and topsoil which has been stockpiled and which is presently available for redistribution over the final configuration of the refuse area will provide adequate cover [in compliance with UMC 817.85(d)] with sufficient volume remaining to cover the rest of the disturbed area with at least 6 inches of topsoil (as specified in the approved MR 2).

As you can see, there are several deficiencies in the MR 2 which you contend is the approved plan for this operation. In accordance with UCA 40-10-11(2), DOGM would not have permitted the future disturbed area for an undesignated use simply based on the inclusion of the area in the disturbed area acreage specified in the MR 1. Therefore I do not think that BCCC has a valid state permit for the western extension of the refuse pile as required by UCA 40-10-9(1). This decision is further supported by the fact that the extended operation is not bonded as required by UCA 40-10-15(1). The deficiencies in the plan have created an obstruction to the enforcement of UCA 40-10-17(m) and UMC 817.81 - .87.

I am hereby requesting the BCCC obtain a valid state permit for the western extension of the refuse area. Complete and adequate plans that meet the requirements of part UMC 784 and UMC 817.81 - .87 should be submitted within two weeks for DOGM review and approval. The information submitted in the August 1980 application is not sufficient to meet these requirements.

The State approved interim plans do not include the construction and use of a second truck dump located outside the boundary of the affected area (as indicated on the surface facilities map submitted with the MR 2). Plans for the use of the facility were submitted in the August 1980 Mining and Reclamation Plan. This August 1980 application was submitted in response to arrangements made with John Hardaway, OSM for addressing special stipulation #6 of the Huntington #4 Mine permit dated September 29, 1979. According to BCCC representatives, Mr. Hardaway required the submittal of an "approvable mining and reclamation plan" before construction of a new truck dump would be allowed. BCCC obtained construction approval for the truck dump from the Utah Bureau of Air Pollution Control on August 21, 1980. In a letter to the bureau (August 18, 1980), OSM indicated that since installation of the truck dump and stacking tube would enhance pollution controls they would have no objection, providing the operator would monitor air quality. On August 25, 1980 BCCC committed to air quality monitoring (although questioning OSM jurisdiction) with the understanding that they would then be able to commence construction of the truck dump and stacking tube as proposed. OSM never responded to this commitment with a formal letter of approval. BCCC started construction of the truck dump in January 1981 and it was completed in April 1981. During that time DOGM was reviewing the August 1980 MRP. Several deficiencies were detected in the review and listed in an ACR dated April 3, 1981. At that time OSM discovered that the August 1980 MRP did not adequately describe the "on the ground" situation and intended to reevaluate the plan with the response to the ACR.

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The August, 1980 plans for the truck dump describe the facility as completed for use. No construction plans or even a commitment to the design and construction requirements of UMC 817.152 were included. The area of topsoil removal and the volume generated for reclamation was not determined. In a later submittal (December 22, 1982) BCCC informed DOGM that the Chipeta Soil Series north of the Kilpack Soil (both within areas where topsoil should have been removed) has been extremely disturbed during truck dump construction and therefore is not salvagable. Again, these mine plan deficiencies are creating an obstruction to enforcement and may have resulted in the loss of topsoil and reduced reclamation potential.

Due to deficiencies in the August 1980 plans DOGM approval was not issued. A separate permit for the truck dump was not obtained either. The inferred approval contained in OSM's August 18, 1980 letter to the Utah Bureau of Air Quality cannot be construed to be a valid permit issued in accordance with the federal law, PL 95-87. Irregardless, BCCC should have obtained a valid state permit for the facility prior to construction in accordance with UCA 40-10-9(1). You are hereby requested to submit plans (in modification to the interim plan) for the Trail Mountain truck dump and stacking tube. Plans should be submitted to DOGM within two weeks so that a valid permit may be issued and compliance acheived. Plans should be complete and address, at a minimum, all design and construction requirements of UMC 817.150 - .156, demonstrate compliance with UMC 817.21 - .24 and provide for reclamation of the facility in accordance with UMC 784.

By this letter I am providing BCCC an opportunity to address the permit deficiencies that present a problem to enforcement. I realize that informal and misdirected transactions in the past may be a cause for these permit deficiencies, but I do intend to have this matter addressed in accordance with the law. BCCC 's failure to submit adequate plans within two weeks of receipt of this letter will result in issuance of a violation of the provisions cited above (with consideration to this prior warning and explanation of the problem). Please feel free to contact Joe Helfrich or myself with your questions or comments.

Sincerely,



SANDY PRUITT
FIELD SPECIALIST

SP/lm

cc: Joe Helfrich, DOGM
Jim Smith, DOGM
Ron Daniels, DOGM
Tom Ehmett, OSM