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

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

June 20, 1994

TO: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist PBB

RE: Permit Transfer Application, Mountain Coal Co., Castle Valley Spur, Folder #2, ACT/007/022, Carbon County, Utah

SYNOPSIS

Savage Industries, Inc., has applied for a transfer of Mountain Coal Company's Castle Valley Spur permit. Several problems with identification of interests, violation information, right-of-entry, and the insurance certificate need to be corrected.

The letter accompanying the permit transfer application says that a permit change form is included, but this form is not in the Division's files. It would normally contain the notarized signature of a responsible official of the applicant that the information in the application is true and correct to the best of the official's information and belief. However, R645-301-123 also requires that the application contain this statement.

ANALYSIS

R645-301-112 Identification of Interests

The permit applicant is Savage Industries, Inc. Savage Industries' resident agent is C. T. Corporation Systems of Salt Lake City. Savage would also be the operator. The application needs to show the applicant's employer identification number.

The application does not identify the person who will pay the abandoned mine reclamation fee. On page 2-1, the application says that Mountain Coal Co. is the owner of record of the coal to be mined. If there is to be any coal mining, the application needs to identify who will pay the abandoned mine reclamation fee. If remining occurs, the application should identify who will pay the abandoned mine reclamation fee if it applies.

Savage's officers and directors are listed on page 2-3, but the dates these officers and directors assumed their positions are not included. The Savage Companies own all of the stock of Savage Industries, Inc. This company is considered to own or control the applicant. Therefore, its employer identification number and officers and directors, including titles and dates these people assumed their positions, need to be included in the application.

The application includes names, titles, and addresses of officers and directors of Mountain Coal Company and Atlantic Richfield Company. Although Mountain Coal Company would continue to own the land on which the loadout is located, it is unclear how they or Atlantic Richfield Company would own or control the applicant. If these companies would not own or control Savage Industries, the ownership and control information about them should be eliminated. If they would own or control Savage Industries, the application would need to contain additional information, such as employer identification numbers, dates officers and directors assumed their positions, and information about affiliated operations.

The only coal mining and reclamation operation affiliated with Savage Industries included in this application is the Catale Oklahoma Loadout. The application needs to include this operation's employer identification number and MSHA number with date of issuance. If there are any coal mining and reclamation operation associated with any of The Savage Companies' other operations, these need to be included in the application.

The application says that Plate 4-1 shows the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area. This plate does not show the addresses of the property owners, but the addresses are shown in Table 4-2. The statement that the addresses are on Plate 4-1 should be corrected, and the location of the addresses should be included in the application.

On page 2-6, the application lists "the name of the proposed mine and the Mine Safety and Health Administration identification number for the mine and all sections." The only MSHA identification number listed is 42-01444. Appendix 2-5 contains a list of other licenses and permits and includes two MSHA numbers associated with refuse piles. The section of the application that covers regulation R645-301-112.700 should either include these refuse pile MSHA numbers or reference Appendix 2-5.

R645-301-113 Violation Information

The application says that neither the applicant nor any subsidiary, affiliate, or person controlled by or under common control has had any federal or state mining permits suspended or revoked in the last five years nor forfeited a mining bond or similar security deposit.

Appendix 2-2 contains a list of all notices of violation received by the applicant in the past three years. Appendix 2-2 does not include the permit number for Catale, but this information is in Appendix 2-1. However, neither appendix has the MSHA number for this operation. Other information required by R645-301-113-300 about the two violations is present.

R645-301-114 Right-of-Entry

The application says that Tables 4-1 and 4-2 contain all required leases, easements, and rights to access. It also says that Savage Industries, Inc., holds a lease on the C. V. Spur property with option to purchase. R645-301-114.100 requires that the application identify right-of-entry documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant. To comply with this regulation, the application needs to contain further information about the transfer of rights. It should include a description of the rights granted by the lease and the execution date of the documents.

R645-301-115 Unsuitability Criteria

The application says that the proposed permit area is not within an area designated unsuitable for the surface effects of underground coal mine activities under the R645 regulations. There are no occupied dwellings within one-fourth mile of the proposed permit area.

The unsuitability criteria include mining within 100 feet of a public road. The application needs to recognize that operations are within 100 feet of a public road. If the road management agency has granted approval to conduct mining and reclamation operations within 100 feet of the public road, an approval letter should be included in the application. If this approval was not in the original permit application, it is not necessary to obtain the approval now.

R645-301-116 Permit Term
R645-301-117 Insurance, Proof of Publication, and Facilities Used in Common
R645-301-118 Filing Fee
R645-301-123 Notarized Signature

The permit will be for the term of the existing permit, August 7, 1989, through August 7, 1994.

Appendix 2-3 includes a certificate of liability insurance. This certificate does not meet the Division's requirements. It needs to include the name and permit number of the Castle Valley Spur operation. The cancellation clause needs to be changed. The phrases "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" need to be eliminated. The Division needs to receive at least 45 days written notice of cancellation.

The insurance certificate does not include a general aggregate limit. Having no limit is to the Division's advantage and exceeds the regulatory requirements.

A few corrections should be made in the proposed newspaper advertisement. It says

that a 5.42 acre area in the E½ SW¼ of Section 11, Township 15 South Range 10 East is not in the permit area. If this parcel is the Jensen property, it is in the W½ SW¼.

According to Plate 4-1 in the plan, the water pipeline crosses a few areas besides those mentioned in the proposed advertisement. They are Section 11, SW¼ NW¼; and Section 2, SE¼ NW¼.

The Division's files do not contain a record of the $5.00 application fee.

The application does not contain the notarized signature of a responsible official of the applicant that the information in the application is true and correct to the best of the official's information and belief.

RECOMMENDATIONS

The Division should not approve the permit transfer application until the problems discussed in this memorandum are resolved.