

FIVE YEAR PERMIT

RENEWAL

C007/0034 BANNING LOADOUT

(DATE FOLDER: 10242003)

OUTGOING

File in:

Confidential

Shelf

Expandable

Refer to Record No. 0008 Date 10242003

In C 0070034 2003 Outgoing

For additional information

00008



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Robert L. Morgan
Executive Director
Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

COPY

OK

October 24, 2003

Rick Olsen, General Manager
Canyon Fuel Company, LLC
P.O. Box 1029
Wellington, Utah 84542

Dear Mr. Olsen: *Rick*

Re: Five-Year Permit Renewal, Canyon Fuel Company, LLC, Banning Loadout, C/007/0034, Outgoing File

The Division of Oil, Gas and Mining has reviewed your application for permit renewal and has made a decision to approve this application. Enclosed is the renewed permanent program mining permit for the Banning Loadout and a copy of the State's Decision Document.

Two (2) copies of the permit are included. Please have both copies signed by the responsible official for Banning Loadout and return one to the Division.

Sincerely,

Lowell P. Braxton
for Lowell P. Braxton
Director

an
Enclosures
cc: J. Fulton, OSM
Price Field Office
O:\007034.BAN\FINAL\PERMIT\DD_RN03.doc

File in: C/0070034/2003 Outgoing

- Refer to:
- Confidential
 - Shelf
 - Expandable

Date: 10/24/03 For additional information

**UTAH DIVISION OF OIL, GAS AND MINING
STATE DECISION DOCUMENT**

**For
PERMIT RENEWAL**

**Canyon Fuel Company, LLC
Banning Loadout
C/007/0034
Carbon County, Utah**

October 24, 2003

CONTENTS

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- * Location Map
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- * AVS Recommendation, memo to file (October 23, 2003)
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ADMINISTRATIVE OVERVIEW

Canyon Fuel Company, LLC
Banning Loadout
C/007/0034
Carbon County, Utah

October 24, 2003

BACKGROUND

The Banning Loadout is a coal loading facility located approximately eight miles east of Wellington, Utah on or along the Union Pacific Company right of way. This rail loadout is permitted by Canyon Fuel Company, LLC (a company owned in part (65%) by Arch Western Resources, LLC [a company owned 99% by Arch Western Acquisition, fully owned by Arch Coal, Inc., and 1% by Delta Housing, Inc. fully owned by Atlanta Richfield Company] and 35% by Itochu Coal International, Inc., a fully owned subsidiary of Itochu Corporation). This loadout went into temporary cessation on March 7, 2000.

PERMIT RENEWAL

Canyon Fuel Company, LLC made application to the Division of Oil Gas and Mining for a five year permit renewal for the Banning Loadout on June 24, 2003. This renewal encompasses the same permit area and disturbance as currently approved in the permit.

The Mining and Reclamation Plan (MRP) for the Banning Loadout was originally approved by the Division of Oil, Gas and Mining on October 24, 1988 and renewed subsequently on October 24, 1993 and October 24, 1998.

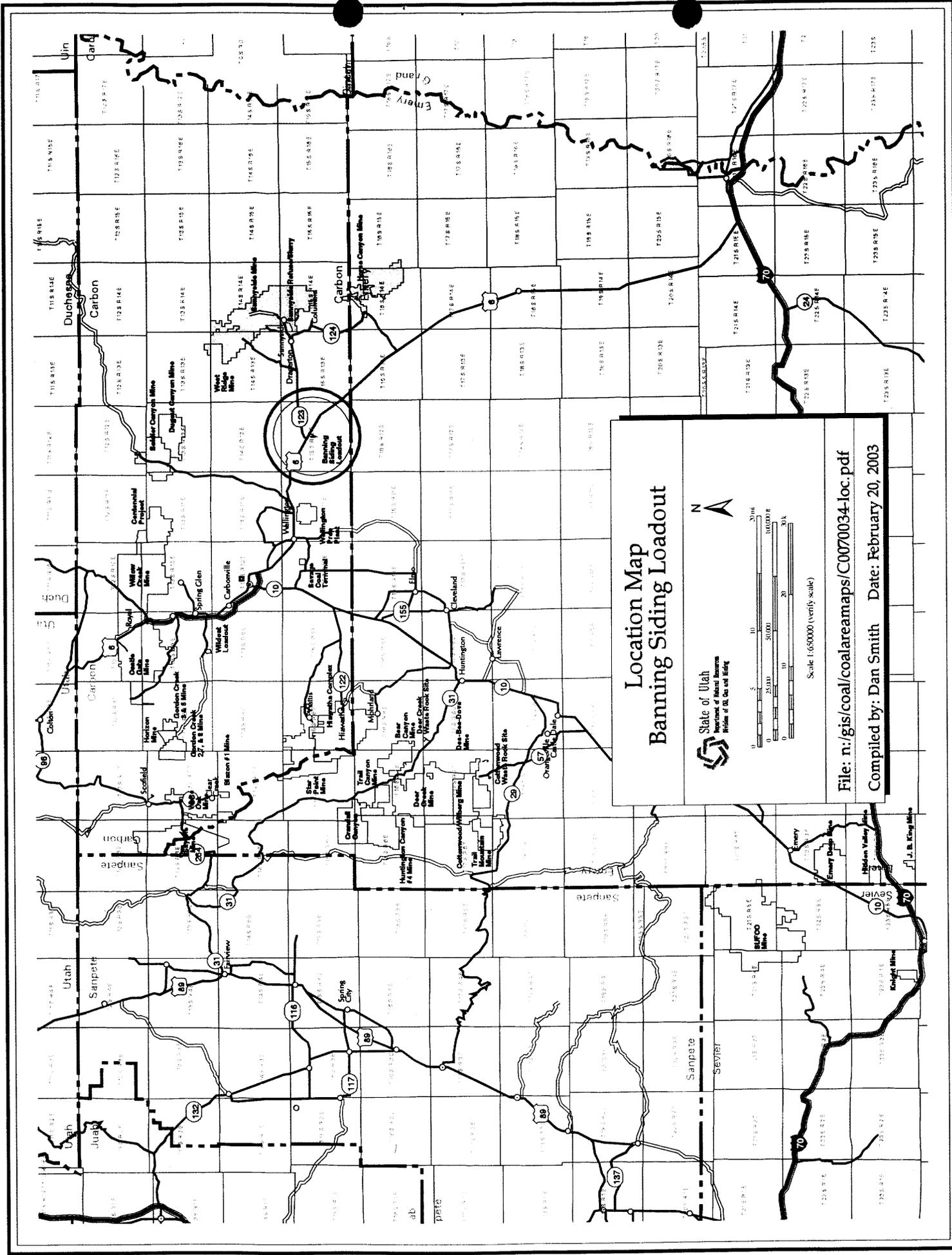
The application for permit renewal was submitted on June 24, 2003 and the renewal application was determined administratively complete on July 27, 2003. Public notice for this permit renewal was published in the Sun Advocate on August 12, 19, 26 and September 2, 2003.

ANALYSIS

The permit renewal application was received at least 120 days prior to permit renewal and all notices were published as required. No comments were received.

RECOMMENDATION

Approval for this permit renewal is recommended.



Location Map Banning Siding Loadout


 State of Utah
 Department of Natural Resources
 Division of Oil, Gas and Mining

Scale 1:650,000 (verify scale)

File: <n:/gis/coal/coaloremaps/C0070034-loc.pdf>
 Compiled by: Dan Smith Date: February 20, 2003

PERMITTING CHRONOLOGY

Canyon Fuel Company, LLC
Banning Loadout
C/007/0034
Carbon County, Utah

October 24, 2003

- June 24, 2003 Canyon Fuel Company, LLC submits application for permit renewal for the Banning Loadout.
- August 1, 2003 Division notifies Canyon Fuel Company, LLC that the Banning Loadout permit renewal application is complete.
- August 12, 19 and 26,
And September 2,
2003 The Banning Loadout permit renewal is published in the Sun Advocate for four consecutive weeks.
- August 1, 2003 Division notifies other federal, state and local agencies about the Banning Loadout permit renewal.
- October 2, 2003 End of public comment period.
- October 24, 2003 Division issues Decision Document and renewed state permit.

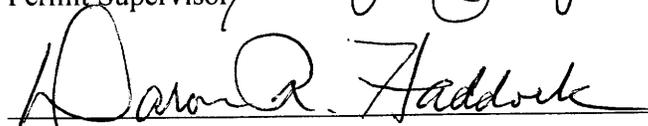
PERMIT RENEWAL FINDINGS

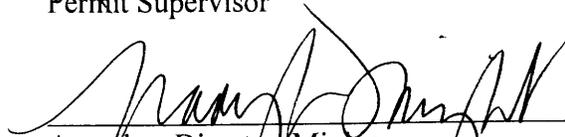
Canyon Fuel Company, LLC
Banning Loadout
C/007/0034
Carbon County, Utah

October 24, 2003

1. The permit renewal term will not exceed the original permit term of five years (R645-303-234).
2. The terms and conditions of the existing permit are being satisfactorily met (R645-303-233.110).
3. The present coal mining and reclamation operations are in compliance with the environmental protection standards of the Act and the Utah State Program (R645-303-233.120).
4. The requested renewal will not substantially jeopardize the operator's continuing ability to comply with the Act and the Utah State Program (R645-303-233.130).
5. The permittee has provided evidence of having liability insurance (Federal Insurance Company - policy #3711-00-10)(R645-303-233.140).
6. The permittee has posted a reclamation surety bond performance bond issued by St. Paul Fire and Marine Insurance Company surety bond number 400SA1916 in the required amount of \$350,000. This instrument will remain in full effect for the additional permit period. No additional surface disturbances are approved with this renewal (R645-303-233.150).
7. The permittee has submitted all updated information as required by the Division at this time. (R645-233.160).


Permit Supervisor


Permit Supervisor


Associate Director, Mining


for Director

AFFIDAVIT OF PUBLICATION

STATE OF UTAH)

ss.

County of Carbon,)

I, Ken Larson, on oath, say that I am the Publisher of the Sun Advocate, a twice-weekly newspaper of general circulation, published at Price, State a true copy of which is hereto attached, was published in the full issue of such newspaper for 4 (Four) consecutive issues, and that the first publication was on the 12th day of August, 2003, and that the last publication of such notice was in the issue of such newspaper dated the 2nd day of September, 2003.

Ken G. Larson

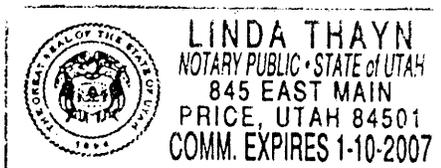
Ken G Larson - Publisher

Subscribed and sworn to before me this 2nd day of September, 2003.

Linda Thayne

Notary Public My commission expires January 10, 2007 Residing at Price, Utah

Publication fee, \$ 355.52



LEGAL NOTICE

Canyon Fuel Company, LLC of Midvale, Utah, hereby announces its intent to renew its permit for the operation of the Banning Loadout under the laws of the State of Utah and the U.S. Office of Surface Mining. The currently approved permit is number C/007/034.

Canyon Fuel Company, LLC, operates the Banning Loadout a coal loading facility which is located eight (8) miles east of Wellington, Utah, on or along a Union Pacific Company right-of-way. Located in portions of Section 15, 16, and 22, Township 15 South, Range 12 East, Salt Lake Base Meridian.

A legal description of the permit boundary includes:

Township 15 S., Range 12 E., Salt Lake Base and Meridian

Section 15: Portions of W1/2

Section 16: Portions of E1/2SE1/4

Section 22: Portions of W1/2NW1/4NW1/4

A copy of the permit renewal application will be available for inspection at the following locations:

Utah Division of Oil, Gas and Mining, 1594 West North Temple, Suite 1210, Salt Lake City, Utah 84114 and Carbon County Courthouse, 120 East Main Street, Price, Utah 84501

The address of the applicant is:

Canyon Fuel Company, LLC, 6955 South Union Park Center, Suite 540, Midvale, Utah 84047

Written comments or request for a hearing regarding this application must be submitted within 30 days of the last publication date of this notice, to the Utah Division of Oil, Gas and Mining, Attention Coal Regulatory Program, 1594 West North Temple, Suite 1210, Salt Lake City, Utah 84114-5801.

Published in the Sun Advocate August 12, 19, 26 and September 2, 2003.



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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October 23, 2003

To: Internal File

From: Pamela Grubaugh-Littig, Permit Supervisor *PGL*

Re: Compliance Review for Section 510 (c) Findings – Permit Renewal, Banning Loadout, Canyon Fuel Company, LLC, C/007/0034

As of the writing of this memo, there are no NOVS or COs which are not corrected or in the process of being corrected. There are no finalized Civil Penalties, which are outstanding and overdue in the name of Canyon Fuel Company, LLC. Canyon Fuel Company, LLC does not have a demonstrated pattern of willful violations, nor have they been subject to any bond forfeitures for any operation in the state of Utah.

The recommendation from the Applicant Violator System (AVS) dated October 23, 2003 denotes that all connected entities either do not have any civil penalties or are under a settlement agreement (attached).

Attachment:
O:\007034.BAN\COMPLIANCE\PGLAVS2003.DOC

Application Evaluation Report Applicant Violator System 23-Oct-2003 11:30.32

State : UT Permit No : ACT007034 Appl No : ACT007034
Permittee : 142816(CANYON FUEL CO LLC) Group : 2
Applicant : 142816(CANYON FUEL CO LLC)

OSMRE: Comments/Analysis: Date : 22-Oct-2003 Mode : VIEW

SPA: Comments/Analysis: Date : 23-Oct-2003 Mode : UPDATE

SAVE (F5) DELETE (F8)
PRV_SCR (F5) QUIT (F4) CHOICES (F10)

FEDERAL

PERMIT
C/007/0034

October 24, 2003

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple, suite 1210
Salt Lake City, Utah 84114-1210
(801) 538-5340

This permit, C/007/0034, is issued for the state of Utah by the Utah Division of Oil, Gas and Mining (Division) to:

Canyon Fuel Company, LLC
6955 Union Park Center, Suite 540
Salt Lake City, Utah 84047
(801) 569-7111

for the Banning Loadout. A Surety Bond is filed with the Division in the amount of \$350,000 payable to the State of Utah, Division of Oil, Gas and Mining and the United States Department of Interior, Office of Surface Mining Reclamation and Enforcement (OSM). The Division must receive a copy of this permit signed and dated by the permittee.

Sec. 1 STATUTES AND REGULATIONS - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.

Sec. 2 PERMIT AREA - The permittee is authorized to conduct coal mining and reclamation operations on the following described lands within the permit area at the Banning Loadout, situated in the state of Utah, Carbon County:

Township 15 South, Range 12, East, SLB&M

Section 15: Portions of W $\frac{1}{2}$
Section 16: Portions of E $\frac{1}{2}$ SE $\frac{1}{4}$.
Section 22: Portions of W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$

This legal description is for the permit area of the Banning Loadout and included in the operation and reclamation plan on file at the Division. The permittee is authorized to conduct mining and reclamation operations on the foregoing described property subject to the conditions of the leases, including all conditions and all other applicable conditions, laws and regulations.

- Sec. 3 **COMPLIANCE** - The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.
- Sec. 4 **PERMIT TERM** - This permit is effective October 24, 2003, and expires on October 24, 2008.
- Sec. 5 **ASSIGNMENT OF PERMIT RIGHTS** - The permit rights may not be transferred, assigned or sold without the approval of the Division Director. Transfer, assignment or sale of permit rights must be done in accordance with applicable regulations, including but not limited to 30 CFR 740.13{e} and R645-303-300.
- Sec. 6 **RIGHT OF ENTRY** - The permittee shall allow the authorized representative of the Division, including but not limited to inspectors, and representatives of the Office of Surface Mining Reclamation and Enforcement (OSM), without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:
- (a) have the rights of entry provided for in 30 CFR 840.12, R645-400-220, 30 CFR 842.13 and R645-400-110;
 - (b) be accompanied by private persons for the purpose of conducting an inspection in accordance with R645-400-100 and R645-400-200 when the inspection is in response to an alleged violation reported to the Division by the private person.
- Sec. 7 **SCOPE OF OPERATIONS** - The permittee shall conduct coal mining and reclamation operations only on those lands specifically designated as within the permit area on the maps submitted in the approved plan and approved for the term of the permit and which are subject to the performance bond.
- Sec. 8 **ENVIRONMENTAL IMPACTS** - The permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the permit, including, but not limited to:
- (a) Any accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance;
 - (b) immediate implementation of measures necessary to comply; and
 - (c) warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.
- Sec. 9 **DISPOSAL OF POLLUTANTS** - The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

- Sec. 10 CONDUCT OF OPERATIONS** - The permittee shall conduct its operations:
- (a) in accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and
 - (b) utilizing methods specified as conditions of the permit by the Division in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.
- Sec. 11 EXISTING STRUCTURES** - As applicable, the permittee will comply with R645-301 and R645-302 for compliance, modification, or abandonment of existing structures.
- Sec. 12 RECLAMATION FEE PAYMENTS** - The operator shall pay all reclamation fees required by 30 CFR Part 870 for coal produced under the permit, for sale, transfer or use.
- Sec. 13 AUTHORIZED AGENT** - The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.
- Sec. 14 COMPLIANCE WITH OTHER LAWS** - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq,) and the Clean Air Act (42 USC 7401 et seq), UCA 26-11-1 et seq, and UCA 26-13-1 et seq.
- Sec. 15 PERMIT RENEWAL** - Upon expiration, this permit may be renewed for areas within the boundaries of the existing permit area in accordance with the Act, the approved Utah State Program and the Federal Lands Program.
- Sec. 16 CULTURAL RESOURCES** - If during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify the Division of Oil, Gas, and Mining. The Division, after coordination with OSM, shall inform the permittee of necessary actions required. The permittee shall implement the mitigation measures required by the Division within the time frame specified by the Division.
- Sec. 17 APPEALS** - The permittee shall have the right to appeal as provided for under R645-300-200.
- Sec. 18 SPECIAL CONDITIONS** - There are special conditions associated with this permitting action as described in attachment A.

The above conditions (Secs. 1-18) are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them.

These conditions may be revised or amended, in writing, by the mutual consent of the Division and the permittee at any time to adjust to changed conditions or to correct an oversight. The Division may amend these conditions at any time without the consent of the permittee in order to make them consistent with any federal or state statutes and any regulations.

THE STATE OF UTAH

By: _____

Date: _____

Walter J. Smith
Oct. 24, 2003

I certify that I have read, understand and accept the requirements of this permit and any special conditions attached.

**Authorized Representative of
the Permittee**

Date: _____

Attachment A

SPECIAL CONDITIONS

1. Canyon Fuel Company, LLC must submit water quality data for the Banning Loadout in an electronic format through the Electronic Data Input web site, <http://hlunix.hl.state.ut.us/cgi-bin/appxogm.cgi>.