

# TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

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January 26, 2007

TO: Internal File

THRU: Wayne Western, Environmental Scientist III *W.W.*

FROM: Priscilla Burton, Environmental Scientist III, Soils. *PWB by an*

RE: Mid-Term Review, Canyon Fuel Company, LLC, Banning Siding Loadout, C/007/0034, Task ID #2619

## SUMMARY:

In a letter dated August 29, 2006, the Division informed the Permittee that the Division would be conducting a midterm review of the Banning Loadout Permit. I have reviewed the administrative information for changes since the last review in August 2005. Although the Salt Lake copy of the MRP is up to date, the Price Field Office needs all of the current legal and financial information placed in the Dugout, Banning, and other affiliated mine plans. This is not a deficiency for the Permittee, but rather an internal matter at the Division.

There have been no changes to the soils information in the plan since the post mining land use change approved in 2005 (for 0.41 acres of pad area associated with the substation within the disturbed area and an additional 0.42 acres of undisturbed area within the permit area (pp 4-6 and 4-7 and Plate 5-2)).

In 2005, the Division stated that there is a reasonable likelihood (R645-301-413.310) that the new land use will be achieved as East Carbonics, Inc. has already purchased the 0.83 acres. However, East Carbonics has not begun to utilize the property.

The disturbed area at Banning Siding Loadout is **approximately** 30 acres. The most complete legal description of this area is found in Exhibit of the Purchase and Sale Agreement between Canyon Fuel Company L.L.C and East Carbonics, Inc., dated May 9, 2003, found in Appendix 1-5 of the MRP.

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**TECHNICAL ANALYSIS:**

**REQUIREMENTS FOR PERMITS FOR SPECIAL  
CATEGORIES OF MINING**

**COAL PREPARATION PLANTS NOT LOCATED WITHIN THE PERMIT  
AREA OF A MINE**

Regulatory Reference: 30 CFR Sec. 785.21, 827; R645-302-110, R645-302-260, et seq.

**Analysis:**

As outlined in the subsequent sections of this technical analysis, the application was reviewed under the Utah Rules for Coal Processing Plants Not Located within the Permit Area of a Mine, R645-302-260. All provisions of R645-300 and R645-301 apply to this category of mining unless otherwise specified under R645-302.

**Findings:**

As discussed in this Technical Analysis, the information provided does not meet the minimum requirements for Coal Processing Plants Not Located within the Permit Area of a Mine. The Division's Findings are outlined under the R645-301 headings that follow.

**GENERAL CONTENTS**

**IDENTIFICATION OF INTERESTS**

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

**Analysis:**

Canyon Fuel Company, LLC was issued the permit to operate the Banning Loadout C/007/034 on 12/20/1996 (see correspondence folder and MRP, Section 111).

Volume 1 of the Banning MRP refers the reader to the General Chapter 1, dated February 2005 legal and financial information for Arch Coal. The information provided is not current in the Price Field Office. The information was revised and approved on March 37, 2006 as follows:

General Chapter 1 volume contains information on corporate ownership for Canyon Fuel Company's affiliated Utah mines: SUFCO Mine, Skyline Mine, Soldier Canyon Mine, Banning Loadout, and Dugout Canyon Mines. (Section 111 of the MRP).

Section 112.400 of the MRP and Table 1-1 and Figure 1-1 (A – D) of General Chapter 1 provide a listing of affiliated coal mining operations under the control of Canyon Fuel Co., LLC. The listing includes the affiliated Utah mines itemized in Sec 111 and the successfully reclaimed bond release sites: Gordon Creek No. 2, 7, and 8, Gordon Creek No. 3 and 6, and Huntington Canyon No. 4 mine.

Figure 1-1 (A-D) also provides an organizational chart showing corporate ownership and control of Canyon Fuel Co., LLC by Arch Coal, Inc. The list of officers and directors for Canyon Fuel Co., LLC and its four corporate owners (Arch Western Bituminous Group, LLC; Arch Western Resources, LLC; Arch Western Acquisitions Corp; and Arch Coal, Inc.) is found in Appendix 1-1. App. 1-1 was last updated in February 2006. Changes in officers are clearly noted with beginning and ending dates and are attested to by notarized statements from each corporate entity.

**Findings:**

The information provided meets the requirements of the Regulations for Identification of Interests.

**VIOLATION INFORMATION**

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

**Analysis:**

General Chapter 1 provides a three-year violation history in Table 1-2 for Utah affiliated mines (listed in Table 1-1). The most current list dated December 2002 – 2005 is found in Table 1-2.

**Findings:**

The information provided meets the requirements of the regulations.

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**RIGHT OF ENTRY**

Regulatory Reference: 30 CFR 778.15; R645-301-114

**Analysis:**

Right of way information is described in the text, Section 114 pages 1-31 through 1-33 and Appendix 1-5. The Rights of Way are illustrated on Exhibit 4-1. Rights of way have been obtained from the BLM, the State of Utah, and the Railroad.

The disturbed area at Banning Siding Loadout is approximately 26 acres (p.5-9). The most complete legal description of the area to be reclaimed is found in Exhibit B of the Purchase and Sale Agreement between Canyon Fuel Company L.L.C and East Carbonics, Inc., dated May 9, 2003, found in Appendix 1-5 of the MRP.

The Purchase and Sale Agreement between Canyon Fuel Company, L.L.C. and East Carbonics Inc., dated May 7, 2003, is included in Appendix 1-5. This agreement indicates the Buyer's willingness to retain the substation for post-mining land use. The agreement does not transfer the State Lease or BLM Right of Ways. No water rights are conveyed with this agreement. There has been no use of the land or substation by East Carbonics as of this date.

**Findings:**

The information provided meets the Right of Entry requirements of the Regulations.

**LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS**

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

**Analysis:**

Information is provided in Section 115 of the MRP.

**Findings:**

The information provided meets the requirements of the Regulations.

**PERMIT TERM**

Regulatory References: 30 CFR 778.17; R645-301-116.

**Analysis:**

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, October 24, 1998, and on October 24, 2003. The permit term expires October 2008.

The Loadout went into Temporary Cessation on March 7, 2000.

**Findings:**

The information provided is adequate to meet the permit term requirement of the Regulations.

**MAPS AND PLANS**

Regulatory Reference: 30 CFR 777.14; R645-301-140.

**Analysis:**

Exhibit 5-4 shows the location of the Banning Siding Loadout and surrounding surface ownership. Exhibit 5-1 shows the Banning Siding disturbed area and the location of the acreage transferred to adjacent surface owner, East Carbonics Inc.

**Findings:**

The information provided is adequate for the purpose of the Maps and Plans requirements of the Regulations.

**ENVIRONMENTAL RESOURCE INFORMATION**

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

**PERMIT AREA**

Regulatory Requirements: 30 CFR 783.12; R645-301-521.

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**Analysis:**

The permit and disturbed areas are shown on Exhibit 5-1. The disturbed area and area of postmining land use change is shown on Exhibit 5-2. The surface ownership is shown on Exhibit 5-4. The permit area (36 acres) and disturbed area (26.3 acres) are described in Section R645-301-521. The facilities occupy 21.6 acres. The haul road accounts for 4.7 acres.

The Division's bond file indicates the permit area is 36.42 acres and the disturbed area is 21.6 acres.

The Reclamation Agreement indicates that the legal description of the permit area is all or portions of sections 15, 16, 21, 22 in T 15 S, R 12 E, and "described more precisely in the Banning Mining and Reclamation Permit." The legal description of the disturbed area is found in Appendix 5-4, as well as in the Purchase Agreement between Canyon Fuel Company, L.L.C. and Carbonics Inc. included in Appendix 1-5 of the MRP.

The acreage undergoing post mining land use change is 0.41 acres of pad area associated with the substation within the disturbed area and 0.83 acres of the permit area (pp 4-6 and 4-7).

**Findings:**

The information provided meets the requirements for reporting of permit area.

**SOILS RESOURCE INFORMATION**

Regulatory Reference: 30 CFR 783.21; 30 CFR 817.22; 30 CFR 817.200(c); 30 CFR 823; R645-301-220; R645-301-411.

**Analysis:**

There has been no change to the soils information last reviewed in August 2005.

**Findings:**

The information provided meets the requirements for Environmental Resource Information-Soils.

**OPERATION PLAN**

## TOPSOIL AND SUBSOIL

Regulatory Reference: 30 CFR Sec. 817.22; R645-301-230.

### Analysis:

#### Removal and Storage

There has been no change to the MRP soils information last reviewed in August 2005.

### Findings:

The information provided in the submittal meets the minimum requirements of the Regulations.

## RECLAMATION PLAN

### TOPSOIL AND SUBSOIL

Regulatory Reference: 30 CFR Sec. 817.22; R645-301-240.

### Analysis:

#### Redistribution

There have been no changes to the Banning Loadout MRP since its last review in 2005. The Banning loadout has disturbed approximately 20 acres (Exhibit 5-2). Chapter 2 (pages 2-9 through 2-15) and Chapter 3 (pages 3-8 through 3-17) describe the soil reclamation plans for the Banning Loadout. The MRP describes removing surface coal (the surface will not exceed 50% coal); ripping to a depth of 18 inches; gouging the surface (MRP Section R645-301-231.300 and R645-301-233.100 and R645-301-552.100 (page 5-83)); grading to contour; and creation of depressions for moisture retention; addition of 40 lbs/acre of sulfur coated urea (45-0-0); incorporation of 2000 lbs of alfalfa or native grass hay; broadcast or drill seeding according to Table 3-3; and application of 2000 pounds/acre wood fiber mulch with chemical tackifier.

The MRP indicates on page 3-13 of Section R645-301-341.220 that soils of the regraded site will be sampled.

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**Findings:**

The information provided meets the requirements for topsoil and subsoil redistribution.

**STABILIZATION OF SURFACE AREAS**

Regulatory Reference: 30 CFR Sec. 817.95; R645-301-244.

**Analysis:**

Chapter 5 describes soil roughening in section R645-301-552.100 (page 5-83) of the MRP. Chapter 3 pages 3-8 through 3-17 describes incorporation of 2000 lbs of alfalfa or native grass hay into the soil surface. Mulch will be used at the site as described in R645-301-341.230, page 3-13, at a rate of 2000 lbs wood fiber mulch per acre anchored by a chemical tackifier.

**Findings:**

The information provided meets the requirements of the Regulations.

**RECOMMENDATIONS:**

Although the Salt Lake copy of the MRP is up to date, the Price Field Office needs all of the current legal and financial information placed in the Dugout, Banning, and other affiliated mine plans.