

0006

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

May 9, 2007

AK

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 #2760

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. This memo reviews the administrative details and soils information in the MRP. 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. had purchased the 0.83 acres. As of 2007, East Carbonics was under construction to meet contract deadlines of July 2007.

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.

TECHNICAL MEMO

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 Legal and Financial Volume for Arch Coal for ownership and control information. General Chapter 1 volume was revised and approved on March 21, 2006. It 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. From this chart, one sees that Canyon Fuel Co., LLC is a subsidiary of 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. 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 2004 – 2006 is found in Table 1-2.

Findings:

The information provided meets the requirements of the regulations.

RIGHT OF ENTRY

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

TECHNICAL MEMO

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. As of May 2007, the East Carbonics facility was under construction to meet contract deadlines of July 2007. Pure CO₂ is the company operating the East Carbonics' facility.

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.

TECHNICAL MEMO

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.

TECHNICAL MEMO

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:

This mid-term review of the administrative and soils details in the MRP indicates that the permit is in good standing.