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# TECHNICAL MEMORANDUM

## Utah Coal Regulatory Program

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May 19, 2011

TO: Internal File 1007

THRU: Daron Haddock, Permit Supervisor, Coal Program Supervisor

FROM: Ingrid Campbell, Environmental Scientist II, Lead VC

RE: Midterm Permit Review, Canyon Fuel Company, Banning Siding Loadout, Permit # C/007.0034, and Task # 3813.

### SUMMARY:

On April 19, 2011, the Division notified Canyon Fuel Company (CFC) of the commencement of the midterm permit review for Banning Siding Loadout. The following items were listed in the notification as potential review items:

- A. Review of the Plan to ensure that the requirements of all permit condition, division orders, notice of violation (NOV), abatement plans, and permittee-initiated Plan changes approved subsequent to permit approval or renewal (whichever is the most recent) are appropriately incorporated into the Plan document.
- B. Ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program which have occurred subsequent to permit approval or renewal.
- C. Review applicable portions of the permit to ensure that the Plan contains commitments for application of the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flows outside of the permit area.
- D. Evaluate the compliance status of the permit to ensure that all unabated enforcement actions comport with current regulations for abatement; verify the status of all finalized penalties levied subsequent to permit issuance or permit renewal, and verify that there are no demonstrated patterns of violation (POV). This will include an AVS check to ensure that Ownership and Control information is current and correct.

- E. Evaluate the reclamation bond to ensure that coverage adequately addresses permit changes approved subsequent to permit approval or renewal, and to ensure that the bond amount is appropriately escalated in current-year dollars.
- F. Evaluate the permit for compliance with variances or special permit conditions.
- G. Optional for active mines, mandatory for reclamation only sites: conduct a technical site visit in conjunction with the assigned compliance inspector to document the status and effectiveness for operational, reclamation, and contemporaneous reclamation practices undertaken on predetermined portions of the disturbed area to minimize, to the extent practicable, the contribution of acid or toxic materials to surface or groundwater, and to otherwise prevent water pollution.

The midterm review was completed on May 19, 2011. Several items need to be updated in the M&RP. CFC must submit an amendment to the permit which include the following items.

**R645-301-113:** Please provide a current table 1-2, three year violation history for all mining operations associated with Canyon Fuel Company.

**TECHNICAL ANALYSIS:**

**GENERAL CONTENTS**

**VIOLATION INFORMATION**

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

**Analysis:**

Violation information is included in General Chapter 1 table 1-2. This table includes a three year violation history from 2005-2009 for all mining and reclamation operations. The table is outdated and does not include current violations.

**Findings**

The information provided is not considered adequate to meet the minimum regulatory requirements for this section. Prior to approval, the permittee must provide the following in accordance with:

**R645-301-113:** Please provide a current table 1-2, three year violation history for all mining operations associated with Canyon Fuel Company.

**RIGHT OF ENTRY**

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

**Analysis:**

Right of Entry information is located in Section 114 of the Volume 1, page 1-6. This section includes a description of the documents upon which the permittee bases their legal right to enter and begin coal mining and reclamation operations in the permit area. No rights of entry are pending litigation. Rights of way are from the BLM, State of Utah and the Railroad. Appendix 1-5 includes the right of way and lease agreements which give CFC the right to extract coal by certain coal mining and reclamation operations.

**Findings:**

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The information provided is considered adequate to meet the minimum regulatory requirements for this section.

## 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 for this section is found in the Banning Siding Loadout M&RP, section 115, page 1-8 of volume 1. The loadout is not within 300 feet of an occupied dwelling, but is within 100 feet of a public road. The public road is maintained by Carbon County. CFC received permission to place the operation within 100 feet of the road when the permit was originally issued.

### Findings:

The information provided is considered adequate to meet the minimum regulatory requirements for this section.

## PERMIT TERM

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

### Analysis:

Operations at the Banning Siding Loadout began in 1976. The most current permit was issued October 24, 2008 and expires October 24, 2013. Exhibits 5-1 and 5-2 show the surface facilities and area affected by the operations. The original Liability insurance is found in appendix 1-4, however, Chapter 1 is now in a stand alone binder which includes the most current liability insurance. The liability insurance expired on 7/31/2010. A current certificate of liability insurance, which expires 7/31/2011 can be found in 2010 incoming folder titled, 07272010.pdf.

### Findings:

The information provided is considered adequate to meet the minimum regulatory requirements for this section.

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**RECOMMENDATIONS:**

The midterm review is complete. CFC must submit the deficient items listed above in a separate amendment to the permit.

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