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

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September 15, 1995

TO: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist *PAB*

RE: Draft Review, Mining and Reclamation Plan Technical Analysis, Willow Creek Mine, Cyprus Plateau Mining Corporation, PRO/007/038, Working File, Carbon County, Utah

*Folder # 2*

## SYNOPSIS

On May 11, 1995, Cyprus Plateau Mining Corporation ("Cyprus") submitted an application to mine areas to the east of the Price River north of the confluence with Willow Creek. The Division received additional information June 12, 1995, August 11, 1995, and September 14, 1995.

Mine portals would be near Willow Creek. Other surface facilities would include the permitted Castle Gate Preparation Plant and associated loadout, the Gravel Canyon topsoil pile, and part of the facilities in Crandall Canyon.

Cyprus has provided complete land ownership information, and the application needs to document certain right of entry information. The general contents section of the application can be considered administratively complete, and it is nearly technically complete.

## ANALYSIS

### IDENTIFICATION OF INTERESTS, VIOLATION INFORMATION, AND RIGHT OF ENTRY INFORMATION

Regulatory Reference: UCA R645-301-112; R645-301-113; R645-301-114

#### Analysis:

#### Identification of Interests

Cyprus Plateau Mining Corporation (hereafter referred to as "Cyprus") submitted this



mining and reclamation permit application. Cyprus is a wholly-owned subsidiary of, in ascending order, Cyprus Western Coal Company, Cyprus Amax Coal Company, Amax Energy, Inc., and Cyprus Amax Minerals Company. Cyprus, as the applicant, is authorized to do business in Utah.

The application shows the applicant's address, telephone number, and employer identification number. Cyprus will be responsible for payment of the abandoned mine land reclamation fees. The resident agent is CT Corporation System of Salt Lake City, Utah. The main MSHA number will be 42-02113; some facilities will have separate MSHA numbers.

Figure 2.1-1 is an organizational chart for Cyprus Amax Minerals Company. Exhibit 1 contains lists of operations affiliated with the applicant and with G. R. Spindler, an officer of Amax Coal Company. The information in this section of the application is complete.

Table 2.1-1 is a summary of corporate information and shows addresses, telephone numbers, and employer identification numbers for Cyprus Amax Minerals Company, Amax Energy Company, Cyprus Amax Coal Company, Cyprus Western Coal Company, and Cyprus Plateau Mining Corporation. This table also shows the names, most social security numbers, titles, and dates positions were assumed for the officers and directors of these companies.

Surface and mineral ownership information is presented in Section 2.1.2.4 and on Maps 1 and 2. Much of the surface land in the proposed permit area is owned by Blackhawk Coal Company and leased to Cyprus Western Coal Company either directly or through Amax Land Company and Amax Coal Company. Amax Coal Company leases the Castle Gate Preparation Plant and loadout and the Gravel and Crandall Canyon areas from Blackhawk. Cyprus will manage the lands for mining use under operating agreements with Cyprus Western Coal Company and Amax Coal Company.

According to Map 1 and the text, Harry C. and Alda M. Edwards own land contiguous to the proposed permit area, but the application does not include their address. It says the address is not in Carbon County records. It should be provided if it becomes available.

Map 2 shows regional coal ownership. The text has a list of legal and equitable owners of record of the coal to be mined within the proposed permit area. These are Blackhawk Coal Company, Carbon County, the Bureau of Land Management, and the Utah Department of Natural Resources Division of State Lands and Forestry. Owners of coal rights contiguous to the proposed permit area are the Bureau of Land Management, Blackhawk Coal Company, Carbon Count, the State of Utah, Pacificorp, Dennis Bettino et al., Mathis Land, Inc., and Harry and Alda Edwards.

### Violation Information

Compliance information is presented in Section 2.1.4 and Exhibit 2. Neither the applicant nor any affiliate, subsidiary or persons controlled by or under common control with the applicant has had a federal or state mining permit suspended or revoked in the five years prior to the date of the application, and these entities have not forfeited a mining bond or similar security deposited in lieu of bond.

Exhibit 2 information is in addition to what is required by the regulations and is not considered a deficiency. R645-301-113.300 requires the application to include a list of all violation notices received by the applicant (Cyprus Plateau Mining Company) within three years preceding the date of the application. In Exhibit 1, the only operation listed with the applicant as permittee is the Star Point Mine. The application only needs a complete notice of violation list for this one operation.

R645-301-113.300 also requires a list of all unabated cessation orders and air and water quality violation notices received by the applicant or any operation owned or controlled by either the applicant or any person that owns or controls the applicant. The status of several violation notices in Exhibit 2 is listed as "pending." This includes two violation notices issued by the Division that have been terminated. It is assumed that the various operations are working within required abatement schedules to complete abatement. Any failure to abate cessation orders or similar unabated violation notices should be highlighted.

### Right of Entry

Cyprus's application says right of entry for surface lands and coal extraction is based on operating agreements with Cyprus Western Coal Company and Amax Coal Company. Cyprus Western Coal Company has leased or subleased surface and underground rights from Blackhawk Coal Company under terms of a November 1, 1993 Agreement. Amax Coal Company holds leases for the Castle Gate Preparation Plant and its associated loadout and the Gravel and Crandall Canyon areas. These leases were made with Price River Coal Company and Blackhawk Coal Company in a January 31, 1986, agreement.

Section 2.1.5.1 has legal descriptions for leased areas in the proposed permit area.

The description of Federal Consolidated Lease SL-048442-050115 includes an exception for a partial assignment to Amca Coal Leasing. The exception is for the SW $\frac{1}{4}$  of Section 1, Township 13 South, Range 10 East. Since Amca Coal Leasing has acquired rights to mine all coal seams in this area, the partial assignment is interpreted to mean that a portion of the lease was assigned to them. This parcel is outside the proposed permit area.

Right of entry information is considered complete and accurate with two exceptions.

The application does not give right of entry information for where the Crandall Canyon access road crosses Bureau of Land Management property. This property is within lease SL 029093-046653, and a letter from Cyprus's representative says the lease gives the right to conduct surface operations in addition to underground. This is probably true; federal coal leases normally give the right to develop certain surface support facilities. Although the application mentions this lease held by Amax Coal Company, it does not mention the rights claimed by Cyprus or the specific lands to which those rights might apply.

Cyprus does not present right of entry information for two federal leases in the north part of the permit area. The Division cannot allow mining in these areas without right of entry information. Options include requiring Cyprus to excise the proposed leases from the proposed permit area, proceeding with permit review under the assumption that Cyprus may obtain necessary rights before the Division is ready to issue a permit, and conditioning any approval on no mining in these areas until Cyprus has the appropriate right to enter. Section 2.1.2.4 says approval of the lease application for these areas is anticipated during the first quarter of 1996 prior to approval and issuance of the Division's permit. The Division should proceed under the assumption this right of entry will be granted, but if it is not, the Division will need to stipulate the permit or otherwise restrict mining for these proposed federal leases.

For all other areas of the permit area, Cyprus presents information describing the specific lands where they claim right of entry. The application also describes the documents granting the rights to enter and begin mining and reclamation operations.

Not all land described in the application is within the proposed permit area. Some of it is in the Castle Gate permit area. The reason for including these descriptions in this application is unknown. If Cyprus needs to leave descriptions of these areas in the application, they should include a statement that the areas are not within the proposed permit area.

**Findings:**

The application is complete and accurate with the following exceptions:

1. The application needs to include right of entry information for the entire proposed permit area. Right of entry information is not considered adequate for the following areas:
  - a. The application does not explain the rights Cyprus claims for where the Crandall Canyon road crosses Bureau of Land Management property. However, it appears Cyprus has the right to enter these areas.

- d. There are two proposed federal leases in the northern part of the proposed permit area. Cyprus states in correspondence to the Division that they are in the process of obtaining rights to mine these leases, but, until they obtain the right to enter and begin mining and reclamation operations in these areas, the Division cannot approve mining in these areas. The Division should proceed with processing the application on the assumption that Cyprus will obtain right of entry.

## **UNSUITABILITY CLAIMS**

Regulatory Reference: UCA R645-301-115

### **Analysis:**

To the best of the applicant's knowledge, the permit area is not within and does not include any area designated or under current study for designation as unsuitable for mining. No operations are proposed within 300 feet of an occupied dwelling, but portions of the mine surface facilities would be within 100 feet of a public road. The application says this road is State Highway 191, but it is a U. S. Highway.

In compliance with R645-103-234.100 through 400, Cyprus has obtained approval from the Utah Department of Transportation for an encroachment on the highway. On May 11, 1995, a public hearing was held in the Carbon County Courthouse concerning the operations within 100 feet of the public road. The application includes a copy of a letter requesting that the Division hold a public hearing and a copy of the Division's notice. The hearing was attended by Lowell Braxton of the Division who documented it in a Division memorandum. Notice of the public hearing was properly given, and a registered professional reporter made a stenographic record. No comments were made concerning conduct of mining within 100 feet of Highway 191. Based on appropriate notice and lack of adverse public comment, the Division finds that the interests of the public and affected landowners will be protected from the mining activities proposed for within 100 feet of the highway right-of-way.

The Division is unaware of any designation of the area as unsuitable for mining. Through the review and public comment periods, government agencies and the public will have the opportunity to petition that any area be designated as unsuitable.

### **Findings:**

This portion of the application is complete and accurate.

**PERMIT TERM, INSURANCE, PROOF OF PUBLICATION, FACILITIES OR STRUCTURES USED IN COMMON, FILING FEE, NOTARIZED SIGNATURE**

Regulatory Reference: UCA R645-301-116; R645-301-117; R645-301-118; R645-301-123

**Analysis:**

**Permit Term**

The application is for an initial permit term of five years beginning from the date of permit approval and issuance. It says Cyprus has submitted complete information for the entire anticipated life of the Willow Creek Mine to support future permit renewals.

In meetings with the Division, Cyprus and its consultant's personnel have indicated that, depending on market and mining conditions, they intend to eventually reopen the Crandall Canyon shafts and mine in this area. Although the plans are tentative, the blanket statement that this application is for the entire anticipated life of the mine is not entirely correct. It would be more accurate to qualify this statement with a comment that Cyprus may seek to include additional areas in the permit area in the future.

**Insurance**

The application says Cyprus will obtain and provide the Division with a certificate of insurance prior to initiation of development and mining activities. Based on this commitment, the Division can determine this portion of the application administratively complete, but, before the Division issues a permit, Cyprus will need to submit an insurance certificate or other evidence showing they have met the insurance requirements of R645-301-800.

American Electric Power Company ("AEP") submitted an insurance policy for the area which they formerly permitted, the Willow Creek Mine, INA/007/002. The policy is retroactive to July 1, 1990, and expires July 1, 1996. Companies affording coverage are the United State Fire Insurance Company and Energy Insurance (Bermuda) Ltd. The policy includes general aggregate coverage for \$1,000,000 and \$250,000 for each occurrence. This policy does not meet requirements for a coal mining and reclamation operation, but AEP is not proposing any operations.

**Proof of Publication**

The application says a copy of the proposed newspaper advertisement for the permit application is in Exhibit 3. Upon receipt of notification that the Division has determined the permit application to be administratively complete, Cyprus will place the advertisement in the

"Sun Advocate" at least once per week for four weeks. A copy of the proof of publication will be provided to the Division after the last date of publication.

Exhibit 3 does not contain a copy of the proposed newspaper advertisement. The application is not required to contain a copy of the newspaper advertisement until after advertising is completed. Until advertising is complete, the statement in Section 2.1.8.2 that a copy of the proposed advertisement is in the application is incorrect.

#### Facilities or Structures Used in Common

Cyprus plans to use the Castle Gate Preparation Plant, associated loadout, and may use the Crandall and Gravel Canyon areas to meet potential ventilation and reclamation needs. These areas are included in the approved Castle Gate mining and reclamation plan. Plans for these facilities are included in the Willow Creek application. The application says that, during an interim period following review and approval of the Willow Creek application and during development of the Willow Creek Mine, the shared facilities may be included in and bonded under both the Willow Creek and Castle Gate permits. Cyprus anticipates that a permit revision will be submitted to eliminate the shared facilities from the Castle Gate permit.

These commitments satisfy the requirements of R645-301-117.300.

#### Filing Fee

The Division has on file a copy of the check paid for the filing fee.

#### Notarized Signature

The application says the required notarized signature of a responsible Cyprus official that the information in the application is true and correct to the best of the official's information and belief was included in the transmittal which accompanied the permit application submittal. The required statement was included with the transmittal letter and is in the application before the table of contents.

#### Findings:

This section of the application is complete and will be accurate after Cyprus includes a copy of the proof of publication in its application. If felt appropriate, Cyprus should modify the statement in Section 2.1.7 where the application says the permit application provides information for all anticipated mining and reclamation operations over the life of the mine.

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Before the Division issues a permit, Cyprus will need to submit a certificate of insurance or other evidence of insurance satisfying the requirements of R645-301-800.

When Cyprus has advertised for the permit submission, they will need to submit proof of publication.

## **RECOMMENDATIONS**

Cyprus has provided adequate land ownership, right of entry, and other information required by R645-301-100 for the Division to determine the application administratively complete. Cyprus will need to make some relatively minor clarifications. Also, the application will need to include an insurance certificate or other evidence of meeting insurance requirements, and the proof of publication.

Cyprus has not acquired rights to mine two proposed federal leases in the northern part of the proposed permit area. They anticipate having these leases before the Division would issue a permit. The Division should process the application on the assumption that the leases will be granted, but it cannot allow mining in those areas without right of entry.