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

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September 8, 1997

TO: Mine File

FROM: Lowell P. Braxton, Acting Director *L.P. Braxton*

RE: Analysis of Permittability, Dugout Canyon Road, Canyon Fuel Company, LLC,
Dugout Canyon Mine, PRO/007/039, Folder #3, Carbon County, Utah

Following is an analysis of the public road leading to the proposed Dugout Canyon Mine, Carbon County, Utah, for regulation under the Utah Coal Regulatory Program.

Summary

The Dugout Canyon Road leading to the site of proposed coal mining and reclamation operations has been on the Utah State Class B county road system for over 30 years. Carbon County plans to upgrade the Dugout Canyon Road to accommodate increased traffic volumes attendant to opening of a new coal mine in Dugout Canyon. Carbon County will finance this upgrade through established mechanisms presently under its jurisdiction. After opening the Dugout Canyon Mine, the Dugout Canyon Road will remain a public road.

Analysis

Canyon Fuel Company's Permit Application Package (PAP) for a Mining and Reclamation Permit (MRP) under the Utah Coal Regulatory Program states:

1. The road which will access the mine is a county road that extends from the Soldier Creek Road (Utah Highway 53) to the disturbed area of the mine (a distance of approximately 7.5 miles). Carbon County is currently planning the upgrade of this road to handle the increased traffic which is anticipated as a result of the mine operation. The county will construct the upgrade and charge the operator a toll based on established county procedures for use of the road.
2. The proposed mining facilities pad ("the disturbed area") occupies portions the N $\frac{1}{2}$ Section 23, T 13 S, R 12 E, SLBM, and most of the remaining permit area lies to the north of the facilities pad.
3. The road crosses into the permit area in the SENESE of Section 22, T 13 S, R 12 E, leaves the permit area to enter the NWNWSW of Section 23, and re-enters the permit area in the SESWNW of Section 23.

4. On April 14, 1997, Carbon County wrote the Division and affirmed:

A. The Dugout Canyon Road has been on the Utah State Class "B" county road system since at least 1958. The road has been referred to as the Dugout Canyon Road since this time, although Carbon County plans to provide a numerical designation for the road subsequent to a future upgrade to the road.

B. The Dugout Canyon Road is a part of the Carbon County road system, and when coal mining and reclamation operations commence, public use will not be denied to any portion of the Dugout Canyon Road on or off of the permit area.

C. Carbon County is responsible for alignment, construction, maintenance, liability, and for environmental issues related to the alignment and construction of the Dugout Canyon Road.

D. Carbon County proposes to upgrade the Dugout Canyon Road to meet AASHTO and UDOT 1992 standard specifications for road and bridge construction, and Carbon County will oversee the upgrade.

E. The upgrade will be funded from a low interest loan from the Utah Community Impact Board. Maintenance is funded from Utah Class "B" road funds and Carbon County's general fund.

F. After the upgrade, the Dugout Canyon Road will function as a multiple use, open access public road similar to others in the county including the Carbon County Airport Road, the Wattis Road, and the Nine Mile Canyon.

5. In order for a road to be permitted under the UCRP, the road must meet the test of being a "coal mining and reclamation operation", and fall within the UCRP's definition of "roads."

"Coal Mining and Reclamation Operations" means (a) activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of Section 40-10-18 of the Act, surface coal mining and reclamation operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include all activities necessary and incidental to the reclamation of the operations, excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting; in-situ distillation; or retorting, leaching, or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. Provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16-2/3 percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration

subject to Section 40-10-8 of the Act; and, provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and (b) the areas upon which the activities described under part (a) of this definition occur or where such activities disturb the natural land surface. These areas will also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

"Road" means a surface right-of-way for purposes of travel by land vehicles used in coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for use in coal mining and reclamation operations or coal exploration, including use by coal hauling vehicles to and from transfer, processing, or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal

Findings & Conclusions

Carbon County had jurisdiction over the Dugout Canyon Road prior to the implementation of the UCRP, and has maintained this jurisdiction to the present. The Dugout Canyon Road right-of-way crosses a mix of federal and fee lands. The mixed land ownership that is crossed by the Dugout Canyon Road precludes the possibility of Canyon Fuel, a predecessor, or successor from deeding the right-of-way to Carbon County to avoid regulation under the Utah Coal Regulatory Program. The uses of the Dugout Canyon Road are considerably expanded beyond the narrow, regulated activities of providing access to coal mining and reclamation operations. The environmental impacts to the Dugout Canyon Road caused by coal truck traffic will not differ from the environmental impacts of other trucks of similar weight operating on this road. Carbon County has established its jurisdiction over the alignment, maintenance, construction and environmental aspects of this road. Duplicate regulatory activities are not in the public interest.

The Dugout Canyon County Road does not need to be included in the permit area for the Dugout Canyon Mine, nor does it fall under the jurisdiction of the Utah Coal Regulatory Program.

vb

cc: Rick Olsen, Canyon Fuel Company, LLC
Carbon County
M. Wright

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