



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

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August 15, 2001

Rick Olsen, General Manager  
 Canyon Fuel Company, LLC  
 P.O. Box 1029  
 Wellington, Utah 84542

Re: Conditional Approval of Leach Field Addendum A-1 and Revised Permit, Canyon Fuel Company, LLC, Dugout Canyon Mine, 007039-AM01A, [REDACTED]

Dear Mr. Olsen:

The Division has completed our review of your plans to install a leach field at the Dugout Canyon Mine. The permit change is conditionally approved, effective August 15, 2001, upon receipt of two additional clean copies of the Leach Field Addendum A-1. I am enclosing our Technical Analysis and two copies of the revised permit for the Dugout Canyon Mine, which authorizes mining and reclamation according to your leach field plans. Please have a company official sign both copies of the permit and return one to the Division.

You should note the requirements and the timeframes associated with the permit. The Permit expires as it previously did on March 16, 2003.

Thank you for completing this permitting action. If you have any questions, please feel free to call me at (801) 538-5325.

Sincerely,

*Lowell P. Braxton*  
 For Lowell P. Braxton  
 Director

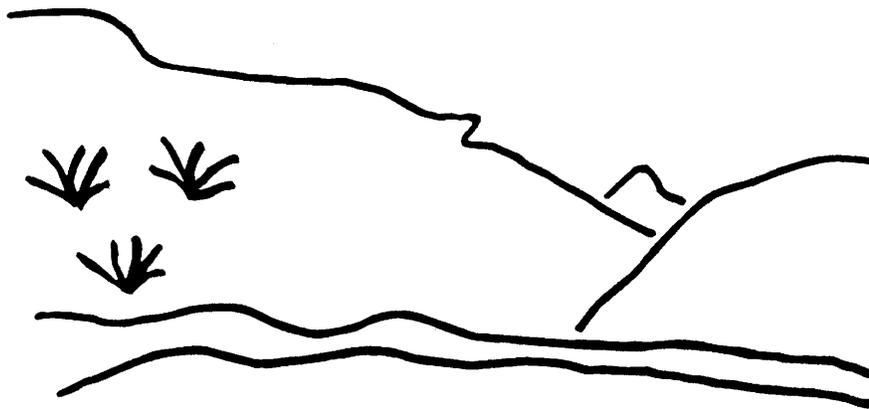
drh/sm

Enclosures: (2)

cc: Joe Wilcox, OSM  
 Richard Manus, BLM  
 Mark Page, Water Rights w/o  
 Dave Ariotti, DEQ w/o  
 Derris Jones, DWR w/o  
 Kevin Carter, SITLA w/o  
 Price Field Office

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# State of Utah



## Utah Oil Gas and Mining

### Coal Regulatory Program

Dugout Mine  
Leach Field  
C/007/039-AM01A-2  
Technical Analysis  
August 14, 2001

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INTRODUCTION

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## TECHNICAL ANALYSIS

### INTRODUCTION

Canyon Fuel Co. has submitted a proposed amendment to their MRP to construct a leach field approximately 1.25 miles southeast of the Dugout Mine. The Division received the proposed amendment on March 26, 2001. The proposed amendment was returned to the applicant on May 21, 2001, and re-submitted to the Division on June 29, 2001. The proposed amendment was returned to the Applicant in early August 2001 and re-submitted to the Division on August 7, 2001. The following Technical Analysis addresses all aspects of the proposed amendment.

The leach field will be located adjacent to the Dugout Canyon road in the W  $\frac{1}{2}$  NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of T13S R12E, on a triangular tract of land between Dugout Creek and an unnamed ephemeral drainage. The field is designed for 135 employees using 35 gallons of water per day. A pipeline will convey gray water from the mine to the leach field. The pipeline constitutes approximately 1.6 acres of disturbance and will be buried below the county road drainage ditch. The applicant has proposed to remove the pipeline corridor from the disturbed area once the pipe is in place. This submittal adds 2.55 acres to the disturbed area within the permit. Of the 2.55 acres, approximately 1.8 acres will be disturbed by the proposed construction; the remainder will be held in reserve.

Information found in the proposal is considered adequate to meet the requirements for approval. The applicant has made the requisite changes to the proposal as necessary to meet the requirements for Amendment Approval.

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August 14, 2001

**INTRODUCTION**

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**SUMMARY OF DEFICIENCIES**

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**SUMMARY OF DEFICIENCIES**

The Technical Analysis regarding the proposed amendment to construct a waste water leach field can be completed at this time. No deficiencies exist.

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**SUMMARY OF DEFICIENCIES**

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GENERAL CONTENTS

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## GENERAL CONTENTS

### IDENTIFICATION OF INTERESTS

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

#### **Analysis:**

Chapter 1 of the federal lease application is an introduction describing where mining activities are currently located, and the location of the proposed leach field addition, (plate 1-4). Over all changes to the current operation and reclamation plan are relatively minor. The site is located approximately 1.2 miles southwest of the Dugout Canyon mine adjacent to the Carbon County access road.

Ownership and control information is in Chapter 1 section 112 of the application by reference to the corresponding chapter(s) of the approved MRP. The applicant/permittee is Canyon Fuel Company LLC, organized under the laws of the State of Delaware and is in good standing and has legal corporate existence. The application includes Canyon Fuel's address, telephone number, resident agent, and employer identification number. The list of officers and directors and corporate structure of Canyon Fuel Company in the MRP are current as of February 26, 2001. Current standing with the Applicant Violator System is pending final approval of the application. The Resident agent accepting service of process is C. T. Corporation Systems. The contact person is Reed Olsen and the abandoned mine fees will be paid by Richard D. Pick. The application includes by reference the MSHA numbers for the Dugout Canyon mine.

#### **Findings:**

Information provided in the proposal is adequate to meet the requirements of the Identification of Interest section of the Regulations.

### VIOLATION INFORMATION

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

#### **Analysis:**

The application refers to the approved MRP. The information in the MRP is current as of February 26, 2001. Neither the applicant nor any of its subsidiaries, affiliates, or persons controlled by or under common control with the applicant has had a federal or state permit revoked or suspended, nor forfeited a bond in the last five years, and there are no outstanding notices of violation.

**Findings:**

Information provided in the proposal is adequate to meet the requirements of the Violation Information section of the Regulations.

**RIGHT OF ENTRY**

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

**Analysis:**

The current application/MRP have been amended to provide the correct legal description of the leach field and pipeline located within the BLM right of way. The amendment was received by the Division on April 26, 2001 for incorporation into appendix 1-3 of the MRP. The BLM is the surface owner of the property where the leach field is to be located. The right of way # UTU77895 provides Canyon Fuel Co. the right to construct, operate, maintain and terminate a pipeline and leach field right of way on public lands.

**Findings:**

Information provided in the proposal is adequate to meet the requirements of the Right of Entry section 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:**

The application refers to the MRP. The legal description and status of unsuitability claims in the current MRP has been modified to include the proposed leach field and pipeline.

**Findings:**

Information provided in the proposal is adequate to meet the requirements of the Legal Description and Status of Unsuitability Claims section of the Regulations.

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**GENERAL CONTENTS**

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**PERMIT TERM**

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

**Analysis:**

The application refers to the MRP. The permit term in the MRP includes the leach field and pipeline.

**Findings:**

Information provided in the proposal is adequate to meet the requirements of the Permit Term section of the Regulations.

**PUBLIC NOTICE AND COMMENT**

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

**Analysis:**

The application refers to appendix 1-2 of the approved MRP, where a copy of the public notice has been inserted.

**Findings:**

Information provided in the proposal is adequate to meet the requirements of the Public Notice and Comment section of the Regulations.

**FILING FEE**

Regulatory Reference: 30 CFR 777.17; R645-301-118.

**Analysis:**

This application does not require a filing fee

**Findings:**

The information provided adequately addresses the requirements of the Filing Fee section of the Regulations.

## **PERMIT APPLICATION FORMAT AND CONTENTS**

Regulatory Reference: 30 CFR 777.11; R645-301-120.

### **Analysis:**

The format of the application is sufficient and compatible with the current MRP.

### **Findings:**

The information provided adequately addresses the requirements of the Permit Application Format and Contents section of the Regulations.

## **REPORTING OF TECHNICAL DATA**

Regulatory Reference: 30 CFR 777.13; R645-301-130.

### **Analysis:**

The technical data provided in this application is accompanied by the names of persons or organizations that collected and analyzed the data.

### **Findings:**

The information provided is adequate to meet the requirements of the Reporting of Technical Data section of the Regulations.

## **MAPS AND PLANS**

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

### **Analysis:**

There were several maps that were revised or updated with additional information due to this amendment. They are noted within the specific sections of this review.

### **Findings:**

Information provided in the proposal is adequate to meet the requirements of the Maps and Plans section of the Regulations.

**GENERAL CONTENTS**

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**COMPLETENESS**

Regulatory Reference: 30 CFR 777.15; R645-301-150.

**Analysis:**

This type of application, (an amendment), does not require an initial completeness review.

**Findings:**

Information provided in the proposal is adequate to meet the requirements of the Completeness section of the Regulations.

## ENVIRONMENTAL RESOURCE INFORMATION

### HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

#### Analysis:

Information provided previously within the approved MRP is sufficient to fulfill the requirements of this section of the regulations. The applicant has made the commitment to notify the Division and SHPO of previously unidentified cultural resources discovered in the course of mining operations.

#### Findings:

The information provided is adequate to meet the requirements of the Historic and Archeological Resource Information section of the Regulations.

### VEGETATION RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.19; R645-301-320.

#### Analysis:

Vegetation in the proposed addition to the permit area is very similar to that in portions of the current permit area. The application and current Mining and Reclamation Plan, (MRP) provide the vegetative information for the Leach Field project. The location of the proposed leach field is approximately one mile below the entrance to the mine facilities yard on the east side of the access road. The vegetation map, (plate 3-1) of the MRP and Attachment 3-1 of the application describe the plant communities of the proposed site as Pinyon / Juniper and Greasewood/Sagebrush with a grass, forb understory. Plate 3-1 and the vegetation inventory map provided for in attachment 3-1 accurately characterize the vegetation of the drain field. The information in the MRP and proposal is adequate to predict the potential for re-vegetation.

#### Findings:

The information provided is adequate to meet the requirements of the Vegetation Resource Information section of the Regulations.

## FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

### Analysis:

The Fish and Wildlife Information is located in chapter 3, section 322, of the application and is discussed in chapter 3 section 322.100 through 322.200 of the approved MRP. According to the submittal dated June 29, 2001, Plates 1-5 has been revised to include the proposed addition in the permit area. This map shows the proposed disturbed area boundary changes that identify the proposed leach field and pipeline as disturbed areas. The legend includes identification of the disturbed area boundary.

The raptor nest survey that did encompass the proposed leach field area was conducted in 1998 by the Utah Division of Wildlife resources. Plate 3-2 of the current MRP has been revised to include the 2001 survey, the proposed leach field and pipeline, and a legend that defines EHWT, DHWT, EHYL and DCSU. The raptor survey does correctly identify the status of the nests that were surveyed in 2001.

### Findings:

Information in the application is adequate to meet the Fish and Wildlife Resource Information section of the Regulations.

## 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:

The site is at 6,715 feet elevation on an alluvial fan. The slope is 6 – 8 %. The average annual precipitation is 12 – 14 inches. The location is in a pinyon-juniper community. A Order I soil survey (found in Attachment 2-1) was conducted by Mr. Dan Larsen, Soil Scientist with Environmental Industrial Services.

Two soil test pits were dug at the site in October 1999. A third pit was dug in the reserve\* location in May 2000. The pit locations are shown on the Soil Description Location Map in Attachment 2-1. Mr. Larsen describes the soil as Map Unit 50, Haverdad loam, moist, 1 to 5 percent slopes. The soil descriptions are found in Appendix S3 of Attachment 2-1. The SCS classification of the soil is as a fine-loamy mixed (calcareous), mesic Ustic Torrifluent.

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\* Attachment 5-1, Leachfield Plans and Specifications, page 3, requires enough land to develop a second complete seepage trench system (Reserve Area).

**ENVIRONMENTAL RESOURCE INFORMATION**

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Samples were taken of the soil adjacent to the soil test pits six months after the soil test pits were dug. These results are found in Appendix S-2 of Attachment 2-1. The three locations are represented by composite samples taken at intervals throughout the profile down to 80 inches (6.5 feet).

The soil is a deep, Haverdad loam with five percent or less coarse fragments in the upper 45 inches and no more than 25% below 45 inches. Most of those coarse fragments are less than 3 inches in diameter. Roots are generally in the upper 20 inches. For the purposes of reclamation, the soil is suitable.

**Findings:**

The information provided is considered adequate to meet the requirements of the Soils Resource Information section of the Regulations.

**ALLUVIAL VALLEY FLOORS**

Regulatory Reference: 30 CFR 785.19; 30 CFR 822; R645-302-320.

**Analysis:**

**Applicability of statutory exclusions**

As supporting data indicates, the leach field exists in pediment gravels (Fig. 6-1), no significant impact to the availability of water to Dugout Creek is anticipated (Sec. 728), the agricultural activities (Sec. 411) are grazing of open land, and the nearest area of irrigated agriculture is located 4 miles southwest of the Dugout Mine. The statutory exclusion is based on State Regulations R645-302-324.221 and -324.222.

**Findings:**

The information provided is considered adequate to meet the requirements of the Alluvial Valley Floors section of the Regulations.

**PRIME FARMLAND**

Regulatory Reference: 30 CFR 785.16, 823; R645-301-221, -302-270.

**Analysis:**

The soils in the vicinity of the Dugout Canyon Mine permit area were surveyed in 1980 (Appendix 2-1 and page 2-2 of Section 221). At that time, the SCS determined that prime

farmland was located along the Soldier Canyon Road in the East ½ of Section 1 and East ½ of Section 12 both in T14S, R11E.

The leach field is located along the Dugout Canyon road in the W ½ NW ¼ NW ¼ of T13S, R12E. Although the soils in the vicinity of the leach field are Haverdad Loam, the lack of irrigation water and lack of historic use for farming precludes a designation of prime farmland.

**Findings:**

The information provided is considered adequate to meet the requirements of the Prime Farmland section of the Regulations.

**GEOLOGIC RESOURCE INFORMATION**

Regulatory Reference: 30 CFR 784.22; R645-301-623, -301-724.

**Analysis:**

Included in the proposed amendment was site-specific information pertaining to the Leach field area. Due to limited aerial extent, cross sections were not provided. The Leach field area is underlain by the Mancos Shale, which dips 4-6 degrees north. Two test pits were dug to 90 and 95-inches, respectively, and no bedrock was found. A general geologic map was provided illustrating the Leach field area is mapped in Quaternary-aged pediment gravels immediately adjacent to Quaternary-aged alluvial gravels associated with Dugout Creek.

**Findings:**

The information provided is considered adequate to meet the requirements of the Geologic Resource Information section of the Regulations.

**HYDROLOGIC RESOURCE INFORMATION**

Regulatory Reference: 30 CFR Sec. 701.5, 784.14; R645-100-200, -301-724.

**Analysis:**

**Sampling and Analysis**

No changes pertain to either the groundwater or surface water sampling programs as outlined in the current MRP. No additional sampling of groundwater or surface is necessary due to the limited impact, and limited uses of the waters in the area. Additional comments are provided within the Operational Hydrology Section of this Technical Analysis.

**ENVIRONMENTAL RESOURCE INFORMATION**

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**Findings:**

The information provided is considered adequate to meet the requirements of the Hydrologic Resource Information section of the Regulations.

**MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION**

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

**Analysis:**

**Vegetation Reference area Maps**

The text on page 3-3 of the proposed application refers the reviewer to the approved MRP. Section 323.100, Page 3-21 of the approved MRP states that "Reference area(s) are not designated on any plate or figure within this M&RP". However, Plate 3-1, (vegetation) of the current MRP does depict two reference areas. The proposed application and the approved MRP have been revised to include Plate 3-1.

**Findings:**

Information in the application is adequate to meet the Maps, Plans, and Cross Sections of Resource Information section of the Regulations.

**OPERATION PLAN**

# **OPERATION PLAN**

## **FISH AND WILDLIFE INFORMATION**

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

### **Analysis:**

#### **Protection and Enhancement Plan**

Appendix 3-3 provides for a mitigation plan that could be implemented for the proposed pipeline and leach field. The application has been revised to include a reference to the mitigation plan contained in Appendix 3-3 section 3.1.1. Plate 3-2 indicates that the area is a high use area for deer and elk at certain times throughout the year. The legend on plate 3-2 has been clarified as referenced in the wildlife information of the environmental resource section. There are also several raptor nests within one mile of the proposed leach field. Paul Baker accompanied Chris Colt on the recent 2001 raptor survey. Their preliminary findings indicated that there was an active prairie Falcon nest and an active Golden Eagle nest within one mile of the proposed leach field. Therefore, a raptor mitigation plan would be required.

#### **Endangered and Threatened Species**

The Fish and Wildlife Service has provided a list of proposed and listed threatened and endangered species for Carbon and Emery County for the Horizon Mine. The Division analyzed the potential for each species on this list to be affected by the proposed addition to the permit area, and, except for potential effects to the threatened and endangered fish of the upper Colorado River basin (see discussion below), there should be no effects. Species on the list are:

Graham Beardtongue	Razorback Sucker
Bald Eagle	Humpback Chub
Peregrine Falcon	Colorado Pikeminnow
Black-footed ferret	Bonytail Chub

The peregrine falcon is no longer listed, but it is still protected. Raptor surveys have failed to locate peregrine falcon scrapes in the permit area or the federal lease addition although they have been found nearby. If the current survey indicates that there are raptors within one mile from the proposed disturbed area, mitigation will be required.

According to Ben Franklin of the Utah Natural Heritage Program, there is a historical collection of Graham beardtongue from the extreme northeastern corner of Carbon County a few hundred feet from the county line. It is an endemic that occurs almost exclusively on the Green River Formation in Uintah and Duchesne counties. There is virtually no likelihood the mine would affect this species.

There have been no confirmed sightings of black-footed ferrets in Carbon County in several years, so there should be no effect on this species.

Through water use, the mine could adversely affect threatened and endangered fish of the upper Colorado River basin. The Fish and Wildlife Service requires mitigation when annual water use exceeds 100 acre-feet. According to the revised Probable Hydrologic Consequences document, the increased acreage will not result in increased water use, which is currently estimated at 46.5 acre-feet per year. The water use by the personnel for the leach field is estimated at an additional 6.6 acre-feet per year. Therefore, no mitigation should be required.

The Division received a letter from the Fish and Wildlife Service dated March 28, 2000, concurring with the Division's findings on threatened and endangered species. Although water depletions are considered to jeopardize the continued existence of the threatened and endangered fish of the upper Colorado River basin, depletions are addressed by existing inter-agency Section 7 agreements. Therefore, no additional action or mitigation is required at this time. If the mine causes additional depletions, it will be necessary to reassess this determination.

The existing mining and reclamation plan contains information about threatened, endangered, and sensitive species. According to Section 322.200, no threatened or endangered plant or wildlife species were discovered in recent inventories by Wildlife Resources, the Forest Service, or other qualified personnel. Appendix 3-1 contains a letter from Robert Thompson, Forest Service botanist, indicating the area contains no threatened or endangered plant species.

A June 24, 1995 survey for canyon sweetvetch found this sensitive species along Dugout Creek approximately one-half mile below the gate. The Division is aware of a fairly extensive population in the permit area in Fish Creek Canyon, and it could occur in other parts of the permit area and proposed addition.

Section 322.200 says two listed species, the bald eagle and black-footed ferret, could potentially inhabit the area. There have been no confirmed sightings of black-footed ferrets in Carbon County in several years, but bald eagles probably occur within the permit area during the winter.

Dugout Creek is within the drainage of the Green River, which is habitat for certain threatened and endangered fish of the upper Colorado River basin. Through effects on water quantity and quality, the mine could potentially adversely affect these species.

### **Bald and Golden Eagles**

Although bald eagles are common winter residents, there are no nests or concentrated roosting sites within either the current permit area or the proposed addition. As required by R645-301-358.100, the permittee must promptly report to the Division any state or federally listed endangered or threatened species within the permit area of which it becomes aware. Seasonal or migrating bald eagles are expected and would not need to be reported.

**OPERATION PLAN**

**Wetlands and Habitats of Unusually High Value for Fish and Wildlife**

A letter from Robert Thompson (USDA, Forest Service Botanist, 1995) states that a site inventory was conducted and no wetlands were found within the then proposed disturbed area. Although Mr. Thompson is not certified by the Army Corp of Engineers to make this statement, he is a respected professional and his statement is enough not to require a wetlands survey. A site investigation to the proposed pipeline and leach field site by this reviewer on May 9, 2001 would also support Mr. Thompson's findings.

Plate 3-2 indicates that the area is a high use area for deer and elk during the winter months. The legend on plate 3-2 has been clarified. The revised text on page 3-3 of the proposal states "The Leach Field site is within an area considered as high value winter habitat for elk and deer". The response to the initial review provides for the inclusion of appendix 3-3. This appendix contains a mitigation plan that can be implemented for the new disturbance associated with the leach field.

**Findings:**

Information provided in the proposal is adequate to meet the requirements of the Fish and Wildlife section of the Regulations.

**TOPSOIL AND SUBSOIL**

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

**Analysis:**

**Removal and Storage**

Before topsoil removal, vegetation will be removed (page 2-6, Chapter 2) from the entire 1.3 acre area. A portion of this scrubbed vegetation will be used as mulch to protect the soil during plant establishment and for habitat creation. Clearing the vegetation within the disturbed area boundary should still allow for a visual vegetation screen between the County Road and the disturbed area boundary.

After clearing the vegetation, an eight- inch topsoil layer will be removed from the 1.3 acre site (colored blue on Plate 7-2), generating approximately 1, 446 cubic yards of material (page 2-4). (By Division calculations, eight inches over 1.3 acres will yield 1,384 cu yds.) This topsoil will be temporarily stored in a stockpile, to be redistributed immediately after construction (location shown on Figure 2-1). The stockpile will be protected by berms and a silt fence (page 2-9, Section 234.200). The location of the stockpile is indicated on Figure 2-1. The topsoil will be stockpiled in a trapezoidal shaped pile which is eight feet deep and 50 – 125 feet on the sides of its base (page 2-4).

Attachment 5-1, Leach field Plans and Specifications, indicates on pages 3 that each seepage trench will be excavated to a depth of seven feet. Then, five feet of gravel will be placed in the trench and two feet of soil will be replaced on top. Section 222.400 (page 2-3) provides a 17,640 cu ft volume calculation for the trench excavation. Of the 17,640 cu ft, 3,780 cu ft will be backfilled into the trench on top of the gravel. The remaining 13,860 cu ft of subsoil will be graded over the surface of the 1.3 acre disturbed area (Figure 2-1) in a 2.8 inch lift (page 2-3).

The recommendation of the soil consultant, Mr. Dan Larsen, was that "Soil handling activities should consider retaining natural soil layer sequence although some soil mixing should not be detrimental." The four to five inch layer of the C horizon over the Bk1 horizon will not be detrimental to vegetation as long as the C horizon does not create a calcic hard pan. These lower C horizon soils were massive, hard and high in calcium carbonates. The amendment specifies loosening the soil surface to a depth of 8 inches after grading of the excess spoil (page 2-10, section 242.100) to turn the C horizon into the Bk1 horizon before replacement of the topsoil.

The procedure for laying the sewer pipe from the septic tank to the Dugout Canyon Road within the surface facilities area was not discussed within the text of the submittal, but it appears from Contour7-2.DWG that no additional topsoil will be generated as the pipe lieu within the disturbed area boundary of the surface facilities area.

#### **Findings:**

The information provided is considered adequate to meet the requirements of the topsoil and subsoil section of the Regulations.

## **VEGETATION**

Regulatory Reference: R645-301-330, -301-331, -301-332.

#### **Analysis:**

The vegetation map, (Plate 3-1) of the MRP and Attachment 3-1 of the application describe the plant communities of the proposed site as Pinyon/Juniper and Greasewood/Sagebrush with a grass, forb understory. Plate 3-1 and the vegetation inventory map provided for in attachment 3-1 accurately characterize the vegetation of the leach field. The leach field has been designed to disturb the smallest area possible and still meet the requirements of the Department of Health. The application refers to the approved MRP and the MRP only makes reference to the current disturbed area. Appendix 3-3 section 3.1.1 of the approved MRP provides a detailed description of protective enhancement measures to be taken prior to topsoil removal. Section 232.600 of the application has been revised so as not to conflict with Appendix 3-3 section 3.1.1 of the approved MRP. The term "Where feasible" in section 232.600 of the application has been deleted so as it not to conflict with the stockpiling methodology described in appendix 3-3.

**OPERATION PLAN**

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**Findings:**

Information provided in the proposal is adequate to meet the requirements of the Vegetation section of the Regulations.

**HYDROLOGIC INFORMATION**

Regulatory Reference: 30 CFR Sec. 773.17, 774.13, 784.14, 784.16, 784.29, 817.41, 817.42, 817.43, 817.45, 817.49, 817.56, 817.57; R645-300-140, -300-141, -300-142, -300-143, -300-144, -300-145, -300-146, -300-147, -300-147, -300-148, -301-512, -301-514, -301-521, -301-531, -301-532, -301-533, -301-536, -301-542, -301-720, -301-731, -301-732, -301-733, -301-742, -301-743, -301-750, -301-761, -301-764.

**Analysis:**

**Ground-water monitoring**

The location of the proposed Leach Field is mapped in Quaternary-aged pediment gravels, adjacent to alluvial sediments. No test wells were drilled in the leach field area to determine if groundwater existed at depth. However, while conducting the soil survey three holes were augered to 80-inches, 90-inches, and 95-inches, respectively. No subsurface water was encountered at these depths while conducting the soil survey. DEQ regulations require that the leach fields must exist at least 4 feet above bedrock, which is fulfilled. The affect on the groundwater in the area is expected to be minimal. Groundwater will not be encountered or used during construction, maintenance, and reclamation of the leach field.

**Surface-water monitoring**

Dugout Creek, an intermittent drainage, is located approximately 150 ft west and down-slope of the proposed leach field. The nearest Surface-water monitoring point on Dugout Creek is MD-1, which is located approximately 4600 ft upstream of the proposed leach field. Recorded flows range from 1 gpm to 4500 gpm demonstrating the wide variability in the flow regime. Specific Conductance observed at MD-1, ranging from 450 to 1317 umhos/cm, is not representative of the potential water quality downstream of the leach field due to a change in geology. The water quality in the vicinity of the proposed leach field drains portions of the Mancos Shale which greatly down grades the water quality. No potential uses of the surface or ground water are adversely affected by any potential impact from the proposed leach field.

**Stream buffer zones**

The leach field itself is not located within the 100-ft buffer zone, although the proposed sewer line route is within the 100-ft buffer at several locations. The sewer line will be buried in the ditch on the opposite side of the county road. The ditch will be restored to its original condition upon completion of construction activities.

### **Siltation structures**

Additional contributions of suspended solids and sediment to stream flow or runoff outside the permit area will be prevented to the extent possible using silt fences, berms, straw bales, and surface roughening. A total of two berms will be constructed at the leach field construction site. The upper berm is approximately 350-ft long and diverts undisturbed runoff around the site. The lower berm is approximately 160-ft long and diverts runoff from the disturbed area toward a silt fence to be treated prior to entering a ditch paralleling the main access road. Construction of the berms was based on a 10 yr-6 hr storm event of 1.35-inches. The silt fences will be installed before construction begins.

### **Findings:**

Information in the proposal is adequate to meet the requirements of the Hydrologic Information section of the Regulations.

## **RELOCATION OR USE OF PUBLIC ROADS**

Regulatory Reference: 30 CFR 784.18; R645-301-521, -301-526.

### **Analysis:**

The permittee proposes to use the install the sewer pipeline within the Carbon County right-of-way. In a letter date February 21, 2001, from Bill Krompel, Carbon County Commissioner, the permittee is granted conditional permission to install the sewer pipeline within the right-of-way. Mr. Krompel states "Please be advised that your request is granted, with the understanding that Canyon Fuel assumes full responsibility to restore Dugout Road and shoulders to the original conditions upon completion of project."

The Permittee will place warning signs and flag persons at the site to alert the public to the dangers associated with the installation of the pipeline on or near the county road.

### **Findings:**

Information provided is adequate to meet the requirements of the Relocation or Use of Public Roads section of the Regulations.

**OPERATION PLAN**

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**SIGNS AND MARKERS**

Regulatory Reference: 30 CFR Sec. 817.11; R645-301-521.

**Analysis:**

The applicant has committed to a Mine and Permit Identification sign, Perimeter markers, and Topsoil markers being utilized on the Leach Field site as outlined in Section 521.200 of the proposed amendment.

**Findings:**

The information provided is considered adequate to meet the requirements of the Signs and Markers section of the Regulations.

RECLAMATION PLAN

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## RECLAMATION PLAN

### GENERAL REQUIREMENTS

Regulatory Reference: PL 95-87 Sec. 515 and 516; 30 CFR Sec. 784.13, 784.14, 784.15, 784.16, 784.17, 784.18, 784.19, 784.20, 784.21, 784.22, 784.23, 784.24, 784.25, 784.26; R645-301-231, -301-233, -301-322, -301-323, -301-331, -301-333, -301-341, -301-342, -301-411, -301-412, -301-422, -301-512, -301-513, -301-521, -301-522, -301-525, -301-526, -301-527, -301-528, -301-529, -301-531, -301-533, -301-534, -301-536, -301-537, -301-542, -301-623, -301-624, -301-625, -301-626, -301-631, -301-632, -301-731, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-732, -301-733, -301-746, -301-764, -301-830.

#### Analysis:

The permittee proposes to leave the sewer pipeline and leach field piping and concrete boxes in place as part of final reclamation. The Permittee wants leave those structures in place because removing them will cause more harm than good. The Division will allow the permittee to leave the pipeline and concrete boxes in place. The Division concurs with the analysis that removing the structures will cause more harm than good.

#### Findings:

The information provided is considered adequate to meet the requirements of the General Requirements section of the Regulations.

### APPROXIMATE ORIGINAL CONTOUR RESTORATION

Regulatory Reference: 30 CFR Sec. 784.15, 785.16, 817.102, 817.107, 817.133; R645-301-234, -301-270, -301-271, -301-412, -301-413, -301-512, -301-531, -301-533, -301-553, -301-536, -301-542, -301-731, -301-732, -301-733, -301-764.

#### Analysis:

The leach field will be backfilled and grade to the approximate original contours.

#### Findings:

The information provided is considered adequate to meet the requirements of the Approximate Original Contour Restoration section of the Regulations.

## MAPS, PLANS, AND CROSS SECTIONS OF RECLAMATION OPERATIONS

Regulatory Reference: 30 CFR Sec. 784.23; R645-301-323, -301-512, -301-521, -301-542, -301-632, -301-731.

### Analysis:

#### Bonded area map

Plate 3-2, Pipeline Layout, shows the location of the permit area, the current disturbed area, the proposed leach field area and the sewer pipeline. This information is adequate for the Division to determine the location of the new facilities.

### Findings:

The information provided is considered adequate to meet the requirements of the Maps, Plans, and Cross Sections of Reclamation Operations section of the Regulations.

## PROTECTION OF FISH, WILDLIFE, AND RELATED ENVIRONMENTAL VALUES

Regulatory Reference: 30 CFR Sec. 817.97; R645-301-333, -301-342, -301-358.

### Analysis:

The application refers to the approved MRP. Control and mitigation measures provided for in section 333 of the MRP are general and do not provide the specificity required to address the protection of wildlife and related environmental values for the pipeline and leach field. The application has been revised to include a reference to include Appendix 3-3. This appendix provides a site-specific protection and enhancement plan for the vegetative and wildlife communities located in the proposed leach field area.

The application refers the reviewer to the approved MRP in section 342. Section 342, page 3-46 of the MRP states "*habitats of high value will be restored and enhanced beyond their pre-mining conditions.*" This refers to the current disturbed area and does not make reference to or appear to include the pipeline and leach field proposal. The application has been revised to include a reference to Appendix 3-3. The final reclamation seed mix in the MRP is adequate to provide cover and nutritional value for wildlife. The application also contains an interim seed mix to establish a shallow rooting cover of grasses and alfalfa.

RECLAMATION PLAN

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**Findings:**

Information provided is adequate to meet the requirements of the Protection of Fish, Wildlife, and Related Environmental Values section of the Regulations. The requirement to provide a raptor mitigation plan is addressed in the operation plan requirements.

**BACKFILLING AND GRADING**

Regulatory Reference: 30 CFR Sec. 785.15, 817.102, 817.107; R645-301-234, -301-537, -301-552, -301-553, -302-230, -302-231, -302-232, -302-233.

**Analysis:**

**General**

Drawing 5 of Attachment 5-1 shows the current and final surface configurations for the leach field site. The sewer pipeline and leach field piping and concrete boxes will remain in place in perpetuity (Section 553.200). Reclamation will occur immediately after construction.

**Findings:**

The information provided in the proposed amendment is considered adequate to meet the requirements of the Backfilling and Grading section of the Regulations.

**TOPSOIL AND SUBSOIL**

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

**Analysis:**

Immediately after construction, the site will be regraded, ripped and topsoil will be redistributed to a depth of eight inches (page 2-9, section 242.100). As reported in Appendix S2 of Attachment 2-1, nitrogen and phosphorus levels in the soil are adequate for native species. There will be no supplemental fertilization.

**Findings:**

The information provided in the proposed amendment is considered adequate to meet the requirements of the Topsoil and Subsoil section of the Regulations.

## STABILIZATION OF SURFACE AREAS

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

### Analysis:

During construction, sediment control will consist of silt fences (Section 553.100). Berms, surface roughening and seeding for contemporaneous reclamation of the site will control runoff in the long term. The seeding that occurs immediately after construction will be with the final seed mix. The site will not be re-disturbed.

### Findings:

The information provided is considered adequate to meet the requirements of the Stabilization of Surface Areas section of the Regulations.

## CONTEMPORANEOUS RECLAMATION

Regulatory Reference: 30 CFR Sec. 785.18, 817.100; R645-301-352, -301-553, -302-280, -302-281, -302-282, -302-283, -302-284.

### Analysis:

The permittee has committed to reclaiming the disturbed area contemporaneously with construction.

### General

Upon completion of the laterals, the trenches will be back-filled and the area covered with the requisite amount of topsoil. An interim seed mix of grasses and alfalfa will be used to achieve interim reclamation success. This seed mix will provide forage for deer and elk.

### Findings:

The information provided is adequate to meet the requirements of the Contemporaneous Reclamation section of the Regulations.

## REVEGETATION

Regulatory Reference: 30 CFR Sec. 785.18, 817.111, 817.113, 817.114, 817.116; R645-301-244, -301-353, -301-354, -301-355, -301-356, -302-280, -302-281, -302-282, -302-283, -302-284.

**RECLAMATION PLAN**

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**Analysis:**

The applicant has addressed the re-vegetation requirements for the leach field in Section 353 of the application and by reference to corresponding sections of the approved MRP. The vegetation map, (plate 3-1) of the MRP and Attachment 3-1 of the application describe the plant communities of the proposed site as Pinyon / Juniper and Greasewood/Sagebrush with a grass, forb understory. Plate 3-1 and the vegetation inventory map provided for in attachment 3-1 accurately characterize the vegetation of the leach field. Reclamation techniques, timing, mulch and standards for success are provided for and discussed following this analysis. To avoid interference in the leach field by deeper rooting plants the permittee has proposed an interim seed mix of grasses and alfalfa. Shrubs and pinyon and juniper trees will eventually invade the area and are included in the final reclamation seed mix.

**General requirements**

The permittee has committed to establishing a vegetative cover on all reclaimed areas to allow for the designated post mining land-use of wildlife habitat.

**Timing**

The applicant has committed to following the vegetative guidelines set forth by the Division. Planting is to commence during the first favorable planting season.

**Mulching and other soil stabilizing practices**

The application refers to the approved MRP. The MRP indicates that mulch will be used on all areas that have been re-graded and topsoil.

**Standards for success**

The permittee has committed to applying the standards of success in accordance with the approved post mining land use. The approved MRP section 356 page 3-50 outlines the success standards for the Pinyon/Juniper vegetative community.

**Findings:**

The information provided is adequate to meet the requirements of the Revegetation section of the Regulations.

## REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

### PRIME FARMLAND

Regulatory Reference: 30 CFR Sec. 785.16, 823; R645-301-221, -302-300 et seq.

#### Analysis:

The soils in the vicinity of the Dugout Canyon Mine permit area were surveyed in 1980 (Appendix 2-1 and page 2-2 of Section 221). At that time, the SCS determined that prime farmland was located along the Soldier Canyon Road in the East ½ of Section 1 and East ½ of Section 12 both in T14S, R11E.

The leach field is located along the Dugout Canyon road in the W ½ NW ¼ NW ¼ of T13S, R12E. Although the soils in the vicinity of the leach field are Haverdad Loam, the lack of irrigation water and lack of historic use for farming precludes a designation of prime farmland.

#### Findings:

The information provided is considered adequate to meet the requirements of the Prime Farmland section of the Regulations.

### BONDING AND INSURANCE REQUIREMENTS

Regulatory Reference: 30 CFR Sec. 800; R645-301-800, et seq.

#### Analysis:

##### Determination of bond amount

The current bond amount is for \$3,781,000. The proposed leach field would increase the reclamation costs by \$85,575, which is 2% of the bond. The Division usually does not increase bond if the cumulative reclamation increase is less than 5%.

#### Findings:

The information provided is considered adequate to meet the requirements of the Bonding and Insurance Requirements section of the Regulations.

**STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING  
1594 West North Temple  
Box 145801  
Salt Lake City, Utah 84114-5801  
(801) 538-5289**

This permit, C/007/039, is issued for the state of Utah by the Utah Division of Oil, Gas and Mining (DOGGM) to:

**Canyon Fuel Company, LLC  
6955 South Union Park Center, Suite 540  
Midvale, Utah 84047  
(801) 596-7111**

for the Dugout Canyon Mine. Canyon Fuel Company, LLC is the lessee of federal coal lease U-07064-027821 of state coal leases ML-42648, ML-42649 and fee-owned property. A performance bond is filed with the DOGM in the amount of \$ 3,682,000, payable to the state of Utah, Division of Oil, Gas and Mining. DOGM must receive a copy of this permit signed and dated by the permittee.

- Sec. 1 STATUTES AND REGULATIONS** - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.
- Sec. 2 PERMIT AREA** - The permittee is authorized to conduct coal mining and reclamation operations on the following described lands within the permit area at the Dugout Canyon Mine situated in the state of Utah, Carbon County, and located:

T. 13 S., R. 12 E., SLBM, Utah

Section 9:	S1/2SE1/4
Section 10:	S1/2
Section 11:	S1/2
Section 13:	All except N1/2N1/2
Section 14:	All
Section 15:	All
Section 16:	All
Section 17:	E1/2SW1/4; SE1/4
Section 20:	E1/2NW1/4; SW1/4NW1/4; N1/2NE1/4
Section 21:	N1/2NW1/4; NE1/4
Section 22:	N1/2; N1/2S1/2; NE1/4SW1/4SW1/4SE1/4;

S1/2SW1/4SW1/4SE1/4;  
N1/2SE1/4SW1/4SE1/4;  
SE1/4NE1/4SW1/4SE1/4;  
S1/2NW1/4SE1/4SE1/4;  
SW1/4NE1/4SE1/4SE1/4;  
NE1/2NE1/4SE1/4SE1/4

Section 23: NW1/4; NE1/4; SE1/4; NE1/4NW1/4NW1/4SW1/4;  
N1/2NE1/4NW1/4SW1/4; SE1/4NW1/4NW1/4SW1/4;  
NE1/4SW1/4;  
NW1/4SW1/4NW1/4SW1/4;  
S1/2NW1/4NW1/4SW1/4;  
NE1/4NW1/4NW1/4SW1/4;  
N1/2NE1/4NW1/4SW1/4

Section 24: All

Section 25: N1/2N1/2

Section 26: N1/2NE1/4

Section 27: NE1/4SE1/4NE1/4NW1/4;  
S1/2SE1/4NE1/4NW1/4;  
SE1/4NE1/4NE1/4NW1/4;  
W1/2NW1/4NW1/4NE1/4

T. 13 S., R. 13 E., SLBM, Utah

Section 17: SW1/4NW1/4; W1/2SW1/4

Section 18: All except N1/2N1/2

Section 19: All

Section 20: W1/2W1/2

Section 30: NW1/4NW1/4

This legal description is for the permit area of the Dugout Canyon Mine included in the mining and reclamation plan. The permittee is authorized to conduct coal mining and reclamation operations on the foregoing described property subject to the conditions of the leases, including all conditions and all other applicable conditions, laws and regulations.

**Sec. 3 COMPLIANCE** - The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.

**Sec. 4 PERMIT TERM** - This permit becomes effective on August 15, 2001 and expires on March 16, 2003.

- Sec. 5 ASSIGNMENT OF PERMIT RIGHTS** - The permit rights may not be transferred, assigned or sold without the approval of the Director, DOGM. Transfer, assignment or sale of permit rights must be done in accordance with applicable regulations, including but not limited to 30 CFR 740.13(e) and R645-303.
- Sec. 6 RIGHT OF ENTRY** - The permittee shall allow the authorized representative of the DOGM, including but not limited to inspectors, and representatives of OSMRE, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:
- A. have the rights of entry provided for in 30 CFR 840.12, R645-400-110, 30 CFR 842.13 and R645-400-220; and,
  - B. be accompanied by private persons for the purpose of conducting an inspection in accordance with R645-400-100 and 30 CFR 842, when the inspection is in response to an alleged violation reported by the private person.
- Sec. 7 SCOPE OF OPERATIONS** - The permittee shall conduct coal mining and reclamation operations only on those lands specifically designated as within the permit area on the maps submitted in the mining and reclamation plan and permit application and approved for the term of the permit and which are subject to the performance bond.
- Sec. 8 ENVIRONMENTAL IMPACTS** - The permittee shall minimize any adverse impact to the environment or public health and safety through but not limited to:
- A. accelerated monitoring to determine the nature and extent of noncompliance and the results of the noncompliance;
  - B. immediate implementation of measures necessary to comply; and
  - C. warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.
- Sec. 9 DISPOSAL OF POLLUTANTS** - The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

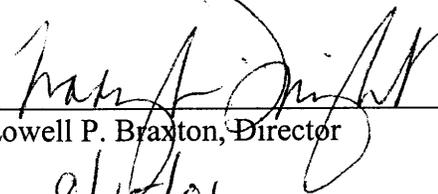
- Sec. 10 CONDUCT OF OPERATIONS** - The permittee shall conduct its operations:
- A. in accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and
  - B. utilizing methods specified as conditions of the permit by DOGM in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.
- Sec. 11 EXISTING STRUCTURES** - As applicable, the permittee will comply with R645-301 and R645-302 for compliance, modification, or abandonment of existing structures.
- Sec. 12 RECLAMATION FEE PAYMENT** - The permittee shall pay all reclamation fees required by 30 CFR part 870 for coal produced under the permit, for sale, transfer or use.
- Sec. 13 AUTHORIZED AGENT** - The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.
- Sec. 14 COMPLIANCE WITH OTHER LAWS** - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq,) and the Clean Air Act (42 USC 7401 et seq), UCA 26-11-1 et seq, and UCA 26-13-1 et seq.
- Sec. 15 PERMIT RENEWAL** - Upon expiration, this permit may be renewed for areas within the boundaries of the existing permit in accordance with the Act, the approved Utah State Program and the Federal Lands Program.
- Sec. 16 CULTURAL RESOURCES** - If during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify DOGM. DOGM, after coordination with OSMRE, shall inform the permittee of necessary actions required. The permittee shall implement the mitigation measures required by DOGM within the time frame specified by DOGM.

**Sec. 17 APPEALS** - The permittee shall have the right to appeal as provided for under R645-300.

**Sec. 18 SPECIAL CONDITIONS** - There is a special condition associated with this permit, as described in Attachment A.

The above conditions (Secs. 1-18) are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them. These conditions may be revised or amended, in writing, by the mutual consent of DOGM and the permittee at any time to adjust to changed conditions or to correct an oversight. DOGM may amend these conditions at any time without the consent of the permittee in order to make them consistent with any new federal or state statutes and any new regulations.

THE STATE OF UTAH

By:   
for Lowell P. Braxton, Director  
Date: 8/15/01

I certify that I have read, understand and accept the requirements of this permit and any special conditions attached.

\_\_\_\_\_  
Authorized Representative of the Permittee/ Title

Date: \_\_\_\_\_

**ATTACHMENT A**

Special Conditions

- 1) Canyon Fuel Company, LLC must continue to submit water quality data electronically to the Division's water quality database.