

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

February 8, 2005

TO: Internal File

THRU: Jerriann Ernsten, Environmental Scientist II/Biology, Team Lead

FROM: Peter H. Hess, Environmental Scientist III/Engineering

RE: SITLA Lease, Canyon Fuel Company, LLC., Dugout Canyon Mine, C/007/0039, Task ID #2083

SUMMARY:

The permittee is proposing to permit lands and mineral rights to mine coal in an area managed by the State of Utah, School and Institutional Trust Lands Administration. The lands encompass acreage in T13S, R13E, SLBM, Sections 17, 21, 28, 29 and 30, and are designated by State lease ML-48435. The acreage involved amounts to 2,560.

The Division classifies this submittal as a significant revision to the currently approved mining and reclamation plan.

The technical analysis designated as TASK ID #1915 was completed and forwarded to the permittee on July 28, 2004. That document contained one deficiency that was relative to ownership and control information.

On December 30, 2004 and January 12, 2005 the permittee submitted revised ownership and control information to the Division. The correlation of that information with that contained in the Office of Surface Mining's Applicant Violator System was confirmed by the Division, with the Division giving approval of the Ownership and Control information on February 8, 2005.

This technical memo (TASK ID #2083) will address the single deficiency identified in TASK ID #1915 and make the finding relative to same.

TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF TERESTS

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

Analysis:

The application contains information relative to identification of interests in Volume 1, Chapter 1, pages 1-2 and 1-3, sections 112.100, 112.200 and 112.300. Section 112.100 describes the location of the Dugout Mine operation, as well as the corporations that comprise Canyon Fuel Company, LLC.

The applicant's name, address, phone number, designated resident agent, employers identification number and the name and address of the person responsible for the payment of the abandoned mine reclamation fees is shown on pages 1-2 and 1-3, section **112.200, Applicant and Operator.**

Section **112.300, (Officers of the Applicant)** of the application, (Volume 1, Chapter 1, pages 1-3 through 1-11), lists the Corporations comprising Canyon Fuel Company, as well as the officers of each of those corporations. On December 30, 2004 and January 12, 2005 the permittee submitted revised ownership and control information to the Division. The correlation of that information with that contained in the Office of Surface Mining's Applicant Violator System was confirmed by the Division. The Division approved Task ID #2069, General Chapter 1, on February 8, 2005.

Section **112.400, Coal Mining and Reclamation Operation Owned or Controlled;** in the initial submittal, the permittee submitted pages 1-11, through 1-13 listing the five Utah mining operations permitted by the State of Utah, Division of Oil, Gas and Mining for Canyon Fuel Company.

R645-301-112.400 requires that "any coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant must be listed". The Division interprets this to mean any other mining operations in the United States of America. "Pertinent information which must be listed for each of those operations includes the following: name, address, identifying numbers, including employer identification number, Federal or State permit number and MSHA number, the date of issuance of the MSHA number, and the regulatory authority"; and (112.420) "ownership or control relationship to the applicant, including percentage of ownership and location in the organizational structure". The updated

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information received on March 30, 2004 by the Division of Oil, Gas and Mining (March 24, 2004 submittal) (page 1-13, Section **112.400**) states that all of the mining operations owned or controlled by the applicant be listed. This has been clarified on page 1-13.

Section **112.500, Legal or Equitable Owner of the Surface and Mineral Properties** (Volume 1, Chapter 1, page 1-13 and 1-14) lists the legal and equitable owners of the surface and minerals properties to be affected by the Dugout Canyon mining operation during the duration of the permit period. The State of Utah, School and Institutional Trust Lands Administration is identified as the owner of the mineral rights to State Lease ML-48435-OBA, located in T13S, R13E, SLBM, all or parts of Sections 17, 19, 20, 21, 28, 29, and 30. The address of SITLA is also listed. All surface ownership above the SITLA mineral leases is by the heirs of the Milton and Ardith Thayn Trust, Sunnyside Star Route, Price, Utah, 84501. This information is also listed in the application, section 112.500. There is no area within the lands to be affected by surface operations and facilities or within the area of coal to be mined that is under a real estate contract. The aforementioned information is depicted on Plate 1-1, SURFACE OWNERSHIP, and Plate 1-2, COAL OWNERSHIP provided within the application. Both Plates are P.E. certified by a professional engineer, registered in the State of Utah.

Section **112.600, Owners of Record of Property Contiguous to Proposed Permit Area** lists the owners of record for surface and mineral properties contiguous to the proposed permit area. These are also depicted on Plates 1-1, and 1-2 described above. The names and addresses of the individuals or business entities having mineral or surface ownership are listed on Page 1-14, (Volume 1, Chapter 1 of the Task ID #1808 submittal).

Section **112.700, MSHA Numbers** (Volume 1, Chapter 1, page 1-15 of the submittal) contains all MSHA identification numbers relative to the facilities associated with the Dugout Canyon Mine. MSHA No. 42-01890 is the Mine associated with the Rock canyon seam. Number 42-01888 is the number given the Mine in the Gilson seam. Number 1211-UT-09-01890-01 is the MSHA number assigned to the Dugout Canyon Mine waste rock disposal facility.

Section **112.800, Interest in Contiguous Lands**, (Volume 1, Chapter 1, Page 1-15), contains information regarding the permittee's interest in the coal reserves adjacent to the current Dugout Canyon Mine permit area. The reserves are owned by the State of Utah, School and Institutional Trust Lands Administration, and are the subject of the permit amendment designated as Task ID #1808. Section 112.800 states that upon Division approval, the permittee intends to begin mining the coal reserves associated with State Lease ML-48435-OBA.

Findings:

The application meets the minimum regulatory requirements of this section.

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 contained in Section **113 Violation Information**, page 16, of Chapter 1, Volume 1 of Task ID #1808, SITLA Lease Amendment. Neither Canyon Fuel Company nor any major stockholder of the Company having an equitable or legal interest has ever had a State or Federal mining permit suspended or revoked or a security deposit in lieu of a bond revoked.

Volume 1, (Task ID #1808), Chapter 1, page 1-16, Section 113 and TABLE 1-2 (See **TABLES and FIGURES**, Chapter1), list all violations of all of the ARCH Coal Company operations from 2000 through 2003. This appears to be acceptable.

Findings:

The minimum regulatory requirements of this section have been met.

RIGHT OF TRY

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

Analysis:

Right of Entry information is contained in the submittal, Volume 1, Chapter 1, section 114, pages 1-16 through 1-22. The legal description relative to the SITLA lease addition is contained on page 1-19, State Lease ML-48435-OBA, containing approximately 2,500 acres.

Page 1-18 of the submittal contains the legal description of the coal lease which was approved as a U. S. Department of the Interior, Bureau of Land Management right-of-way in T13S, R12E, SLBM, Sections 22, 23, and 27. This right of way, (BLM Rt. of Way UTU-77985) contains 57.5 acres and was the right of entry granted to develop the leach field and the associated pipeline for the Mine site. This right-of-way also contains approximately five thousand feet of the Carbon County Road accessing the Mine. The involved acreage has been included within the Dugout Canyon Mine permit area since September of 2000.

Page 1-19 also contains a legal description that refers to a BLM Parcel, containing 2.5 acres. The land is contained in T13S, R12E, SLBM, Section 23. Task ID #1808 includes the

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legal description information for this parcel to update the mining and reclamation plan. This acreage has also been included within the Mine's permit boundary since September of 2000.

Findings:

The information contained in this section meets the minimum regulatory requirements.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY  **AIMS**

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 relative to any status of unsuitability is contained in Volume 1, Chapter 1, Page 1-22, Section **115 Status of Unsuitability Claims**. Based upon information provided by the Task ID #1808 submittal, none of the areas that have been or are being proposed for permitting for coal extraction are within an area that has been designated, or under study for being designated unsuitable for mining.

CFC does not propose to conduct mining activities within three hundred feet of any occupied dwelling. Chapter 5, section **527.200 Description of Transportation Facilities**, page 5-39 of the approved mining and reclamation plan contains information relative to the Carbon County road which was constructed by that entity to access the Dugout Canyon Mine from the Soldier Canyon road, (Utah Highway 53). The road existed for many years, and was upgraded by the County to handle the increased traffic volume and weights needed for coal haulage. The road is maintained via a toll charge paid by Canyon Fuel Company.

All agreements between the County and Canyon Fuel Company for the road are in place. The County road ends at the Mine site disturbed area perimeter; the in place agreements negate any concern by the Division relative to the permittee conducting coal mining activities within 100 feet of the right of way of this public road, (R645-103-234).

Findings:

The minimum regulatory requirements have been met.

PERMIT  **FORM**

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

Analysis:

The State of Utah mining permit, issued by the DOGM was renewed on March 3, 2003, and remains in effect for a period of five years, (expiration on March 3, 2008). All mining activities are being conducted within the term of an active permit.

Findings:

The minimum regulatory requirements of this section are being met by the permittee.

PUBLIC NOTICE AND COMMENT

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

Analysis:

The Task ID #1808 submittal contains information relative to 2,500 acres of surface owned by the heirs of the Milton and Ardith Thayn Trust. Mineral ownership is held by the State of Utah, School and Institutional Trust Lands Administration. The Division considers the lease application a significant revision to the mining and reclamation plan. The permittee published a public notice meeting the requirements of R645-301-117.200 in the *Sun Advocate*, Price, Utah on December 19 and 26, and on January 2 and 9, 2003.

Volume 1, Chapter 1, page 1-22, section **117, Insurance, Proof of Publication, and Facilities and Structures Used in Common** of the Task ID #1808 submittal contains a reference to information contained in Appendix 1-2 of the approved mining and reclamation plan. The following has been noted:

- 1) The general liability insurance certificate contained in the currently approved mining and reclamation plan (Appendix 1-2) was updated with the March 30, 2004 (TASK ID #1884) submittal. The coverage period has been extended until July 31, 2004.
- 2) The proofs of publication contained in Appendix 1-2 are relevant to the SITLA lease / Task ID #1884 submittal.
- 3) Page 1-22 of the submittal does not have any discussion relative to any facilities or structures that are within the current mine permit area, or within the additional acreage being proposed within the SITLA lease. Volume 2, Chapter 5, page 5-33 of the Task ID #1808 submittal contains information indicating that two facilities

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are used in common to facilitate coal mining and reclamation operations. These are the County road previously discussed, and a UP&L power distribution line. The UP&L line provides electrical energy for the Dugout Canyon operation and does not sit on any of the surface that will be affected by secondary coal extraction activities (See PLATE 4-1, LAND USE comparing it to PLATE 1-2, COAL OWNERSHIP) within the 2,500 acres contained in the SITLA lease. The permittee has verbally stated these facts.

Findings:

The minimum regulatory requirements of this section have been met.

FILING FEE

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

Analysis:

The approved mining and reclamation plan contains information relative to the application filing fee of \$5.00 paid by the permittee for the initial mine plan application. That information is not pertinent to this submittal.

A filing fee is not necessary to submit an application for a permit revision.

Findings:

This R645 requirement is not relative to this application.

MAPS AND PLANS

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

Analysis:

The Task ID #1808, SITLA Lease submittal contains several plates (maps) that are relative to topics that must be evaluated as part of the DOGM approval process. The submitted plates include the following:

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- 1) Plate 1-1, SURFACE OWNERSHIP
- 2) Plate 1-2, COAL OWNERSHIP
- 3) Plate 1-4, DUGOUT CANYON MINE PERMIT AREA
- 4) Plate 2-1, NATIVE SOIL TYPES PRESENT IN DUGOUT CANYON MINE PERMIT AREA
- 5) Plate 3-1, VEGETATION
- 6) Plate 3-2, WILDLIFE
- 7) Plate 3-3, POTENTIAL LOCATIONS OF CLIFF ESCARPMENTS WITHIN PERMIT BOUNDARY AND ADJACENT AREA
- 8) Plate 4-1, LAND USE
- 9) Plate 5-7, PROPOSED MINE SEQUENCE AND PLANNED SUBSIDENCE BOUNDARY
- 10) Plate 6-1, GEOLOGY OF DUGOUT CANYON MINE PERMIT AREA
- 11) Plate 6-4, ROCK CANYON SEAM OVERBURDEN THICKNESS
- 12) Plate 6-5, ROCK CANYON SEAM / GILSON SEAM INTERBURDEN MAP
- 13) Plate 6-6, ROCK CANYON SEAM ISOPACH MAP (CONFIDENTIAL)
- 14) Plate 6-7, GILSON SEAM THICKNESS ISOPACH MAP (CONFIDENTIAL)
- 15) Plate 7-1, HYDROLOGIC MONITORING STATIONS
- 16) Plate 7-2, WATER RIGHTS
- 17) Plate 7-3, CASTLEGATE POTENTIOMETRIC SURFACE
- 18) Plate 7-6, DUGOUT CREEK WATERSHED UPSTREAM FROM SURFACE FACILITIES

As noted elsewhere in this document, all of the above maps have been certified by a Utah registered professional engineer. Information on the plates is relative to the different disciplines involved in the DOGM permitting activity. Only those documents that are relative to the topics discussed within this memo can be commented on. All appear to be adequate.

Findings:

The Plates relative to administrative and the engineering discipline meet the minimum regulatory requirements.

OPERATION PLAN

MINING OPERATIONS AND CILITIES

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Analysis:

Information for the requirements of this section is provided by the Task ID #1808 submittal (SITLA Lease application), in Volume 2, Chapter 5, Section **526.100 Mine Structures and Facilities** (pages 5-33 through 5-48). All text changes being proposed are insignificant, and merely add the name “Dugout” in certain areas for clarification purposes. There are no new mine facilities or support facilities being permitted via the SITLA lease application.

Findings:

The minimum regulatory requirements of this section have been met.

EXISTING  RUCTURES:

Regulatory Reference: 30 CFR 784.12; R645-301-526.

Analysis:

There are no existing structures associated with the surface (owned by heirs of the Milton Thayn Trust) over the SITLA lease. All surface lands associated with the SITLA lease are utilized for grazing, (See PLATE 4-1).

Findings:

The minimum regulatory requirements of this section have been met.

RELOCATION OR USE OF PUBLIC  ADS

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

Analysis:

The only public road in use by the permittee is the County road connecting the Mine to the Soldier Canyon road (Utah Highway 53). This requirement is not applicable to the SITLA lease submittal.

Chapter 5, section **527.200 Description of Transportation Facilities**, page 5-39 of the approved mining and reclamation plan contains information relative to the Carbon County road which was constructed by that entity to access the Dugout Canyon Mine from the Soldier

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Canyon road, (Utah Highway 53). The road existed for many years, and was upgraded by the County to handle the increased traffic volume and weights needed for coal haulage. The road is maintained via a toll charge paid by Canyon Fuel Company.

All agreements between the County and Canyon Fuel Company for the road are in place. The County road ends at the Mine site disturbed area perimeter; the in place agreements negate any concern by the Division relative to the permittee conducting coal mining activities within 100 feet of the right of way of this public road, (R645-103-234).

Findings:

Findings relative to the requirements of this section have already been made prior to approval of the current mining and reclamation plan.

COAL COVERAGE

Regulatory Reference: 30 CFR 817.59; R645-301-522.

Analysis:

The requirements of this section have been addressed within the approved mining and reclamation plan, Chapter 5, page 5-22.

Findings:

All findings for the requirements of this section have been previously made.

SUBSIDENCE CONTROL PLAN

Regulatory Reference: 30 CFR 784.20, 817.121, 817.122; R645-301-521, -301-525, -301-724.

Analysis:

All requirements of this section have been addressed within the currently approved mining and reclamation plan.

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Subsidence Control

The permittee's approved mining and reclamation contains the subsidence control plan for the Dugout Canyon Mine. Plate 5-7 submitted as part of Task ID #1808 indicates that one new subsidence monitoring station will be installed in each longwall panel within the SITLA lease. This concurs with the currently approved MRP.

ification

Task ID #1808, SITLA Lease application contains a one-word modification to the section **525.300 Public Notice of Proposed Mining** section. That revision merely adds the word "approximate" to the requirement of notifying surface landowners of the date when undermining of their ownership will occur. This is a minor revision.

Findings:

The minimum regulatory requirements of this section have been met.

ROAD SYSTEMS AND OTHER TRANSPORTATION FACILITIES

Regulatory Reference: 30 CFR Sec. 784.24, 817.150, 817.151; R645-301-521, -301-527, -301-534, -301-732.

Analysis:

This section is not applicable to this submittal. All information relative to these requirements is contained in the approved mining and reclamation plan.

Findings:

The minimum regulatory requirements have been previously addressed.

SPOIL AND WASTE MATERIALS

Regulatory Reference: 30 CFR Sec. 701.5, 784.19, 784.25, 817.71, 817.72, 817.73, 817.74, 817.81, 817.83, 817.84, 817.87, 817.89; R645-100-200, -301-210, -301-211, -301-212, -301-412, -301-512, -301-513, -301-514, -301-521, -301-526, -301-528, -301-535, -301-536, -301-542, -301-553, -301-745, -301-746, -301-747.

Analysis:

Disposal Of Noncoal Mine stes

This is covered in the currently approved mining and reclamation plan.

Coal Mine ste

This is covered in the currently approved mining and reclamation plan.

Refuse s

The submittal, Task ID #1808, makes several very minor revisions to Chapter 5 of the mining and reclamation plan in Volume 2, Chapter 5, pages 5-48, 49, and 50. There are no changes proposed to the methods of handling or disposal of any types of coal mine waste generated by the Dugout Canyon Mine. The only proposed changes are changes in text adding references to the Dugout Canyon Mine and its associated waste rock facility. These changes are insignificant to the waste-handling plan.

Impounding structures

This is covered in the currently approved mining and reclamation plan.

Burning And Burned Waste ization

This is covered in the currently approved mining and reclamation plan.

Return of Coal Processing Waste to Abandoned Underground rkings

This is covered in the currently approved mining and reclamation plan.

Excess Spoil: 

This is covered in the currently approved mining and reclamation plan.

Findings:

The minimum regulatory requirements have been met.

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SUPPORT FACILITIES AND UTILITY STALLATIONS

Regulatory Reference: 30 CFR Sec. 784.30, 817.180, 817.181; R645-301-526.

Analysis:

The requirements of this section are covered by the approved mining and reclamation plan.

Findings:

Findings for this section have been previously made.

USE OF EXPLOSIVES

Regulatory Reference: 30 CFR Sec. 817.61, 817.62, 817.64, 817.66, 817.67, 817.68; R645-301-524.

Analysis:

All requirements of this section are addressed in the approved mining and reclamation plan.

Findings:

Findings for this section have been previously made.

MAPS, PLANS, AND CROSS SECTIONS OF MINING ERATIONS

Regulatory Reference: 30 CFR Sec. 784.23; R645-301-512, -301-521, -301-542, -301-632, -301-731, -302-323.

Analysis:

This is discussed in the approved mining and reclamation plan.

Findings:

All findings relative to this section have been previously made.

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 extraction of coal from the 2,500 acres of mineral resource associated with the SITLA lease will not change the currently approved reclamation plan. This is because there are no new facilities being proposed on the surface lands associated with the SITLA lease.

Findings:

The minimum regulatory requirements have been met, and there is no need to make a new finding.

APPROXIMATE ORIGINAL CONTOUR STORAGE

Regulatory Reference: 30 CFR Sec. 784.15, 785.16, 817.102, 817.107, 817.133; R645-301-234, -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 requirements of this section are addressed within the currently approved mining and reclamation plan.

Findings:

All findings relative to this section have been previously made.

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.

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Analysis:



This has been addressed within the approved mining and reclamation plan. The Task ID #1808 submittal adds verbiage to include the Dugout Canyon waste rock facility, (Volume 2, Chapter 5, page 5-77). This is a minor revision that does not affect the previously approved plan relative to grading activities or final surface configuration.

Findings:

The revision to this section does not affect the previously approved reclamation plan; the minimum regulatory requirements have been met.

MINE ENINGS

Regulatory Reference: 30 CFR Sec. 817.13, 817.14, 817.15; R645-301-513, -301-529, -301-551, -301-631, -301-748, -301-765, -301-748.

Analysis:

The requirements of this section have been addressed by the approved mining and reclamation plan, Volume 2, Chapter 5, page 5-50.

Findings:

All findings relative to this section have been previously made.

ROAD SYSTEMS AND OTHER TRANSPORTATION FACILITIES

Regulatory Reference: 30 CFR Sec. 701.5, 784.24, 817.150, 817.151; R645-100-200, -301-513, -301-521, -301-527, -301-534, -301-537, -301-732.

Analysis:

The requirements of this section are addressed within the approved mining and reclamation plan, (See Chapter 5, pages 5-54 through 5-57 of the approved MRP).

 **Reclamation**

See comments below.

 **Mention**

All surface ownership within the 2,500 acre SITLA lease is by the heirs of the Milton and Ardith Thayne trust. All roads in that area will be retained, with the exception of any degasification well roads that were developed to access the well sites, (G-3, and G-2).

Findings:

The minimum regulatory requirements have been met.

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:

All requirements of this section have been addressed within the approved mining and reclamation plan. Although some text revisions have been made within the Task ID #1808 submittal, (See Volume 2, Chapter 5, Pages 5-33, 35, 48, 49, and 50), none of the struck text or modified text changes any of the previous commitments made by the permittee and approved by the Division. There will be no backfilling or grading necessary to reclaim any of the surface areas within the SITLA lease, due to the fact that there are no surface facilities to be reclaimed.

Certification  Requirements.

All plates (maps) submitted as part of the Task ID #1808 document (SITLA lease) have been certified by a Utah registered professional engineer, (Mr. David G. Spillman, Manager of Technical Services for the permittee).

Findings:

The minimum regulatory requirements of this section have been adequately addressed.