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State of Utah

DEPARTMENT OF NATURAL RESOURCES

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Division of Oil, Gas and Mining

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Outgoing
0070039
#3301
&

June 15, 2009

Wade Robinson, Mine Geologist
Ark Land Company
C/o Canyon Fuel Company
P.O. Box 1029
Wellington, Utah 84542

Subject: Minor Coal Exploration, Canyon Fuel Company, LLC., Dugout Mine, C/007/0039, Task ID #3301, Outgoing File

Dear: Mr. Robinson

The above-referenced amendment is approved effective June 15, 2009.

If you have any questions, please feel free to call me at (801) 538-5262 or Stephen J. Demczak at (435) 613-3732

Sincerely,

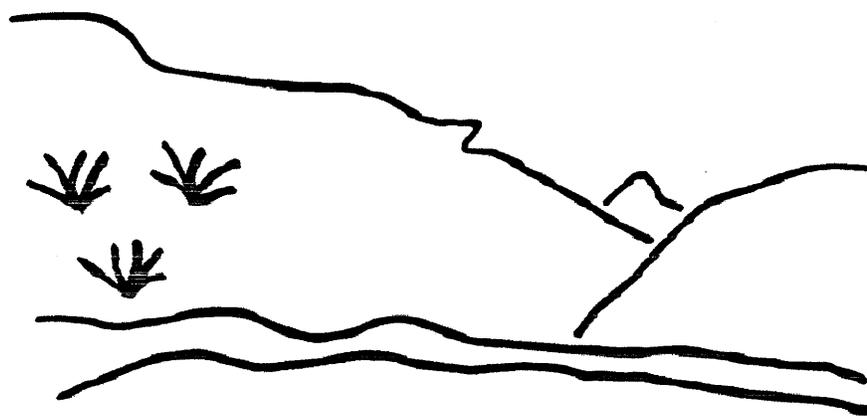
James D. Smith
Permit Supervisor

JDS/sd/ss
Enclosure

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State of Utah



Utah Oil Gas and Mining

Coal Regulatory Program

Dugout Canyon Mine
Notice of Intent to Conduct Minor Coal Exploration
C/007/0039
Task ID # 3301
Minor Exploration Analysis and Findings
June 15, 2009

TABLE OF CONTENTS

INTRODUCTION.....	1
SUMMARY OF OUTSTANDING DEFICIENCIES	3
SUMMARY OF PERMIT CONDITIONS.....	3
COAL EXPLORATION	5
SCOPE AND RESPONSIBILITIES	5
REQUIREMENTS FOR NOTICE OF INTENTION TO CONDUCT MINOR COAL EXPLORATION.....	5
COMPLIANCE DUTIES.....	6
OPERATIONAL STANDARDS.....	6
Biology.....	6
Roads.....	8
Topsoil	8
Topsoil will be save and used in reclamation.	8
Diversions of Overland flows and streams	8
Hydrologic Balance	9
Acid- or toxic forming materials.....	9
RECLAMATION STANDARDS	10
Approximate original contour.....	10
Revegetation	10
Facilities and Equipment.....	10
PUBLIC AVAILABILITY OF INFORMATION.....	11

INTRODUCTION

EXPLORATION TECHNICAL ANALYSIS

INTRODUCTION

On March 23, 2009, Ark Land Company (Applicant), an Arch Coal Inc. subsidiary, submitted a Notice of Intent (NOI) to Conduct Minor Coal Exploration to the Division on behalf of Canyon Fuel Company LLC Dugout Canyon Mine.

The minor coal exploration will consist of one drill hole planned for 2009 within the Dugout Canyon Mine Permit Boundary and on private surface owned by Canyon Fuel Company and the coal will be leased through Utah State Coal Lease (ML-42648).

The exploration area is located approximately 20 miles NE of Wellington, Utah. The proposed exploration hole is located north of Pace Canyon and will be accessed via a county road.

The drill core will be obtained to determine coal seam thickness and associated strata. The applicant will use rubber tire drilling equipment for the minor exploration project. The coal recovery will be less than 250 tons of coal.

Page 2
C/007/0039
Task ID # 3301
June 15, 2009

INTRODUCTION

SUMMARY OF OUTSTANDING DEFICIENCIES

SUMMARY OF OUTSTANDING DEFICIENCIES

The Technical Analysis regarding the proposed permit changes is not complete at this time, pending submittal of additional information by the Permittee and further review by the Division, to address outstanding deficiencies in the proposal. A summary of those outstanding deficiencies is provided below. Additional comments, concerns, and deficiencies may also be found within the analysis and finding make in the Draft Technical Analysis, which have not been presented in this summary. Upon finalization of this review, any outstanding deficiencies will be evaluated for compliance with the regulatory requirements. Such deficiencies may be conditioned to the requirements of the permit issued by the Division, result in denial of the proposed permit changes, or may result in other executive or enforcement actions as deemed necessary by the Division at that time to achieve compliance with the Utah Coal Regulatory Program.

Accordingly, the permittee must address those deficiencies as found within this Draft Technical Analysis and provide the following, prior to approval, in accordance with the requirements of:

SUMMARY OF PERMIT CONDITIONS

As determined in the analysis and findings of this Technical Analysis, approval of the plan is subject to the following Permit Conditions. The applicant is subject to compliance with the following Permit Conditions and has committed to comply with the requirements of these conditions as referenced in the approved Permit.

Accordingly, the permittee has committed to comply with the requirements of the following Permit Conditions, as specified, and in accordance with the requirements of:

Page 4
C/007/0039
Task ID # 3301
June 15, 2009

SUMMARY OF OUTSTANDING DEFICIENCIES

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COAL EXPLORATION

Regulatory Reference: R645-200.

SCOPE AND RESPONSIBILITIES

Regulatory Reference: 30 CFR 772.1; 30 CFR 772.10; 30 CFR 772.11; R645-100-400; R645-200-100; R645-200-200; R645-201-100.

Analysis:

Ark Land Company has proposed to conduct minor exploration by drilling one drill hole on Lease ML-42648 in the year 2009.

The Applicant has committed to comply with the requirements of R645-200 through R645-203.

This minor coal exploration will be conducted on Utah State Coal Lease ML-42648 and the Canyon Fuel Company is the surface landowner; therefore, 43 CFR Part 3480-3487 does not apply.

Findings:

The Applicant has met the minimum requirements of this section.

REQUIREMENTS FOR NOTICE OF INTENTION TO CONDUCT MINOR COAL EXPLORATION

Regulatory Reference: 30 CFR 772.10; 30 CFR 772.11; R645-100-412; R645-201-200.

Analysis:

Coal Rule R645-201-221 requires the applicant to give name, address, and telephone number of the applicant's representatives, who will be present at and responsible for conducting the exploration operations. This information has been submitted in the Notice of Intent, Page 3.

R645-100-400, R645-200-100, R645-200-200, and R645-201-100; Ark Land Company has given a Notice of Intention to Conduct Minor Coal Exploration with a narrative and maps describing the exploration area and indicating where the exploration will occur. This information is on Page 4 and 6 of the Letter of Intent.

SUMMARY OF OUTSTANDING DEFICIENCIES

The Applicant will use rubber tire equipment on existing roads to gain access to the drill site.

The minor exploration project is scheduled to start on July 2009 and be completed by October 31, 2009.

Findings:

The Applicant has met the minimum requirements of this section.

COMPLIANCE DUTIES

Regulatory Reference: 30 CFR 772.13; R645-202.

Analysis:

The Applicant stated to have a copy of the Notice of Intent to Conduct Minor Coal Exploration for review by an authorized representative of the Division upon request.

Findings:

The Applicant has met the minimum requirements of this section in the R645 Coal Rules.

OPERATIONAL STANDARDS

Regulatory Reference: 30 CFR 772.13; R645-202-100.

Analysis:

Biology

Page 5 of the application refers the reviewer to Appendix C that is not included in the application. Page 6 of the application describes the vegetative communities in the exploration sites as mountain brush, pinyon-juniper and sagebrush. According to the survey performed by Pat Collins of Mt. Nebo Scientific there were no threatened, endangered or sensitive plant or animal species located within the proposed drill site locations.

PUBLIC AVAILABILITY OF INFORMATION

The application does not include the following wildlife information or a reference to an Appendix :

- A current list of Threatened and Endangered plant, animal and fish species,
- A statement regarding the absence of Threatened and Endangered and Sensitive species, (plant, fish and animal), and a rationale for their absence that may be located within the proposed drill site locations, a statement is provided but it is not supported by a reference to a survey or the individual that conducted the survey. There is a reference to Appendix C that is not included in the application.
- Vegetation and wildlife maps 3-1 and 3-2 that include the location of the proposed drill sites are found in volume three of the MRP, there are no wildlife or vegetation maps included in this application. There are references to Appendix C that is not included in the application.
- A 2007 raptor survey indicating that there are no active nests within ½ mile of the proposed drilling locations, the applicant may need to provide a current survey.
- A 2007 Northern Goshawk survey. The calling survey conducted over a period of four weeks indicated that there were no responses from Goshawks. There were no nests located within ½ mile of the proposed drill site locations. The applicant may need to provide a current survey.
- A calling point survey was also conducted for the Mexican Spotted Owl. There were no responses according to the results of the survey. The applicant may need to provide a current survey.

The Bald Eagle may visit the area during winter periods of migration. Eagles do not typically nest in Utah, although there are eight known nesting pairs in the state. The exploration activities are scheduled for September of 2008 and would not affect the birds. There are no threatened or endangered or sensitive plant or animal species located in the proposed drill hole locations. Sensitive wildlife species include the Spotted Bat, Townsend's Big Eared Bat, the Northern Goshawk, Flamulated Owl and Three Toed Woodpecker. There is suitable habitat for the Goshawk, and three toed Woodpecker, and marginal habitat for the Flamulated Owl in the mixed conifer forests on the north facing slopes of the drainages. Since the exploration sites are located in open areas these species' habitats would not be affected by the drilling activities. Management Indicator Species include Elk, MuleDeer, the Northern Goshawk, Golden Eagle and Macroinvertebrates. According to the report they would not be affected by the helicopter-drilling project.

The drilling activities are scheduled for the 15th of September, which is not during any wildlife exclusionary periods.

HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

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

Analysis:

Page 6 of the application needs to include information that identifies the survey that is located in the confidential files and a reference to the date of SHPO concurrence. The exploration site can be located on the Mount Bartles and Pine Canyon 7.5 minuet quadrangle maps, township 12 south range, 13 east in section 14. The project areas are located within the Pace Creek and Dugout Creek drainages.

According to the survey there were no known districts, sites, buildings, structures, or objects listed on or eligible for listing on the National Register of Historic Places. The survey results also provided a finding of "no historic properties affected". A copy of the survey was forwarded to the State Historic Preservation Office. The Division received their concurrence from the SHPO by way of "E" mail correspondence on 2009.

Roads

The Applicant will access the site by using County roads in Clark Valley or an alternative route using County and Dugout mine road. No new road construction will be necessary. There is a possibility of grading and minor repair of the road.

Topsoil

Topsoil will be save and used in reclamation.

Diversions of Overland flows and streams

The Applicant has indicated that no diversions of overland flows, ephemeral, perennial, or intermittent streams will be made in association with the exploration drill hole and that no adverse impact will occur to the stream channel during water pumping activities.

PUBLIC AVAILABILITY OF INFORMATION

Hydrologic Balance

The applicant initially stated that a berm from one to three feet high would be installed around the drill pad. The revised application states on Page 12 that a minimum berm of three feet will be placed around the exploration site and the pad will be sloped to direct water to the mud pit.

The applicant initially applied for a Temporary Change of Water to the Utah Division of Water Rights for Application Nos. 91-5024 and 91-409 filed on April 25, 2008 with a one-year approval period. These applications would have expired by the time the drilling was to commence in July 2009. The revised application shows that the Water Rights for Application Nos. 91-5024 and 91-409 were refiled on June 2, 2009, which would allow the applications to be valid during the period of exploration.

Acid- or toxic forming materials

The Applicant initially indicated that excess drill cores exhibiting acid potential would be either "removed for off-site disposal or buried beneath four feet of cover." There was no discussion as to how drill cores will be disposed of even if they do not exhibit acid potential. Page 9 of the revised application indicates that all excess cores will be taken to the waste rock site.

Findings:

[R645-202-200.235, 301-731.121] The applicant has committed to constructing a three-foot berm minimum around the perimeter of the pad to ensure no runoff occurs. The Division reserves the right to conduct a site inspection to evaluate the proximity of the drill site to the stream drainage channel to determine if any water quality impacts to the stream are possible and adequate sediment control measures are in place. Upon inspection of the site, the Division may require additional sediment control measures are implemented, such as hay bales or excelsior logs.

[R645-201-100.130 and 202-200.234] The Applicant has filed the necessary extension with the Division of Water Rights showing that the water rights applications are valid while drilling and water pumping is occurring.

[R645-202-200.236] The Applicant has committed to provide MSDS sheets for the drilling fluids, chemicals or other products used in drilling. The Applicant has also committed to disposing of all excess cores at the waste rock site.

The applicant has met the minimum requirements of this section.

RECLAMATION STANDARDS

Regulatory Reference: 30 CFR 772.13; R645-202-200.

Analysis:

Approximate original contour

The Applicant has stated the drill pad will be reclaimed to approximate original contour.

Revegetation

The application includes a seed mix to be used in reclamation of the drill sites as outlined on page 9 of the application. The seed mix was approved by the division for the Granger Ridge project and is applicable to the locations for the proposed drill sites. Page 9, Figure three has not been provided to show the layout of the drill pad as noted on page 9, section 242 of the application.

Page 9, section 242 of the application needs to include a description of the "method of revegetation". Page 10, paragraph 1, needs to be revised to include a commitment to contact the division prior to making any changes to the approved seed mix and a description of the methodology employed to reclaim the drill site or a reference to the methodology described on page 9, section 242.

Findings:

The information provided is adequate to meet the requirements of this section of the regulations.

Facilities and Equipment

The applicant has stated that waterlines will be reclaimed with the rest of the site. All facilities and equipment will be removed.

Findings:

The applicant has met the minimum requirement in this section.

PUBLIC AVAILABILITY OF INFORMATION

PUBLIC AVAILABILITY OF INFORMATION

Regulatory Reference: 30 CFR 772.15; R645-203.

Analysis:

The Applicant has stated to keep coal seam thickness and coal quality kept confidential.

Findings:

The applicant has met the minimum requirements of this section.

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