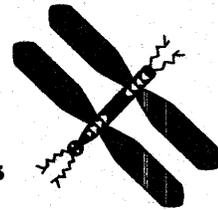


Center for

Water Advocacy

Water Law and Policy Services



August 13, 2008

Dana Dean, Associate Director
Division of Oil, Gas, and Mining
1594 W. North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801
ogmcoal@utah.gov

RE: Comments and Request for Informal Conference on Mining and Reclamation Permit Application-Kinney Mine

Dear Dana:

The Center for Water Advocacy (CWA) appreciates this opportunity to provide comments and to Request an Informal Conference on the Kinney Coal Mine Application Mining and Reclamation Permit Application-Kinney Mine (the Application) submitted by Carbon Resources LLC of Albuquerque, New Mexico. CWA is a non-profit public interest entity dedicated to protecting water resources and interests of its members and the general public in Utah and the west. CWA conducts legal and scientific research, analysis, policy and litigation in its efforts to protect and restore water quantity, water quality and water rights for the health of the watershed ecosystem, preservation of cultural identity and the benefit of its members. We hope that the following comments and requests will be helpful in the Utah Department of Oil, Gas and Minings (DOG M's) decision making process regarding the Application and addressing CWA's concerns about potential impacts to water resources.

I. Utah Criteria for Designating Areas as Unsuitable for Coal Mining and Reclamation Operations.

Under R645-10-300 CWA would like to request that the area designated for mining by the Application be designated as unsuitable for coal mining and reclamation operations, because the operations as provided in the Application will:

- a) Be incompatible with existing state or local land use plans or programs;
- b) Affect fragile or historic lands in which the activities could result in significant damage to important historic, cultural, scientific, or aesthetic values or natural systems;

PO Box 331
90 West Center St.
Moab, UT 84532

RECEIVED

AUG 18 2008

DIV. OF OIL, GAS & MINING

(435)259-5640
(FAX)(435)259-0708
hshepherd@uci.net

c) Affect renewable resource lands in which the activities could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or

d) Affect natural-hazard lands in which the operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

R 645-10-322.100-400.

II. The Application Lacks Information as Required by the Surface Coal Mining Regulations

The Application does not comply with the Utah Coal Mining Permit Regulations (UCMPR). Specifically, R645-301-300-Biology; R645-301-600 Geology; R645-301-800-Bonding and Insurance; R645-301-200-Soils; R645-301-400- Land Use and Air Quality or R645-301-700-Hydrology because it lacks information required by these regulations.

III. The State has not conducted investigation or requested information as directed by the Surface Coal Mining Regulations.

The State has not conducted investigation or requested additional data as deemed necessary to ensure compliance with the requirements of the UCMPR under R645-301-300 - Biology; R645-301-600 - Geology; R645-301-800 - Bonding and Insurance; R645-301-200 - Soils; R645-301-400 - Land Use and Air Quality or R645-301-700 - Hydrology. Nor has the division required sufficient supplemental information to evaluate probable hydrologic or environmental consequences and to plan remedial and reclamation activities based on data provided by the Application that adverse impacts on or off the proposed permit area may occur to the hydrological, biological, land, soils or geological resources as required in R645-301-300-Biology; R645-301-600-Geology; R645-301-800-Bonding and Insurance; R645-301-200-Soils; R645-301-400-Land Use and Air Quality or R645-301-700-Hydrology.

Conclusion and Request for Informal Conference

Based on the above comments, the State should not grant the Kinny Coal Mine Application and/or should designate the area of the Mine as unsuitable for mining activity. In addition, pursuant to R645-300-123.100, the Center for Water Advocacy (CWA), hereby, requests an informal conference on the Kinny Coal Mine Application Mining and Reclamation Permit Application-Kinney Mine, of Albuquerque, New Mexico. (the Application) submitted by Carbon Resources LLC. CWA is a non-profit public interest entity dedicated to protecting water resources and interests of its members and the general public in the west. CWA conducts legal and scientific research, analysis, policy and litigation in its efforts to protect and restore water quantity, water quality and water rights for the health of the watershed ecosystem, preservation of cultural identity and the benefit of its members. We hope that the following comments and requests will be helpful in the DOGMI's decision making process regarding the Application and

addressing CWA's concerns about potential impacts to the water resources. CWA retains members who live in the town of Schofield, Utah were a portion of the main will be located. These members have an interest which is or may be adversely affected by the decision on the application. R645-300-123.100.

A brief summary of the issues to be raised by CWA at the conference is provided in items I-III above. CWA desires to have the conference conducted in the locality of the proposed coal mining and reclamation operation. In addition, CWA requests the applicant grant it and its membership access to the proposed permit area and, to the extent that the applicant has the right to grant access to it, to the adjacent area prior to the established date of the conference for the purpose of gathering information relevant to the conference. Finally, CWA would like to request that it and its membership be allowed to provide oral or written statements and any other relevant information in relation to the Kinney Coal Mine Permit application.

Please contact me if you have any questions regarding our comments or request.

Sincerely,

s/Harold Shepherd

Harold Shepherd, Executive Directive