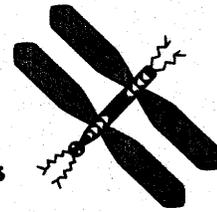


Center for  
**Water Advocacy**  
Water Law and Policy Services



K

December 9, 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](mailto:ogmcoal@utah.gov)

**RE: Petition for Unsuitability - Kinney Mine**

Dear Dana:

The Center for Water Advocacy (CWA) appreciates this opportunity to provide the attached Petition for Unsuitability in relation to 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. 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.

Based on the attached Petition, we request that the State withdraw the Kinny Coal Mine area from coal or other mining activity. Please contact me if you have any questions regarding our comments or request.

Sincerely,

---

Harold Shepherd, Executive Directive

RECEIVED  
DEC 11 2008  
DIV. OF OIL, GAS & MINING

# PETITION FOR UNSUITABILITY

## (Coal Mining and Reclamation Operations)



**Instructions:**

Complete the petition, sign and notarize. Attach the required maps (See Box 6).  
 Mail or Deliver to: State of Utah, Division of Oil, Gas and Mining,  
 1594 West North Temple, Suite 1210, P.O. Box 145801, Salt Lake City, UT 84114-5801.

<b>1. Petitioners Name:</b>	<i>The Center for Water Advocacy</i>
<b>2. Address:</b>	<i>P.O. Box 331 Moab, UT 84532</i>
<b>3. Telephone Number:</b>	<i>(541) 377-0960</i>
<b>4. Legal Description of Area Covered by Petition:</b> <small>(Township, range, section#)</small>	<i>Sections 32 and 33 of Township 12 South, Range 7 East northeast of Scofield, Carbon County, Utah.</i>
<b>5. Identification of Petitioners Adversely Affected Interest:</b>	<p><small>This statement must include how the petitioner meets an "injury-in-fact" test by describing the injury to his or her specific affected interests and demonstrate how he or she is among the injured. (R645-103-422.300, R645-103-422.400)</small></p> <p><i>Petitioners members, some of whom live in the town of Scofield will be directly affected by the proposed Kinney Coal mine No. 2 located 1/2 mile north of Scofield. This mine will directly impact such members health through air, noise and water pollution. In addition, there is insufficient water availability for the mine and, the mine will impact the use of water by petitioners members. In addition, petitioners members use the area of the mine and surrounding area for aesthetic and recreational pursuits including hunting, fishing and aesthetics. These activities will be directly and irreversibly harmed by the mine, thereby directly harming such members.</i></p>
<b>6. Provide map(s) marked to show location and size of area under petition:</b>	<p><small>Attach to this petition USGS 7 1/2 minute topographic map(s) or if unavailable, 15-minute map(s) (R645-103-422.500)</small></p>
<b>7. Legal Owners of Record of the Property:</b>	<p><small>(R645-103-422.610)</small></p> <p><i>SURFACE: Carbon Resources LLC, wholly owned subsidiary of Western Resource Coal Corp.</i></p>
<b>SUBSURFACE:</b>	<i>Carbon Resources LLC</i>
<b>8. Holders of Record (if any) of any Leasehold Interest:</b>	<small>(R645-103-422.620)</small>
<b>9. Purchasers of Record (if any) to the Property Under a Real Estate Contract:</b>	<small>(R645-103-422.630)</small>

**10. Check the appropriate criteria and provide the allegation of fact and the supporting evidence (based on competent and scientifically sound data and information) for designating areas unsuitable pursuant to R645-103-320. (Attach additional sheets and sources as necessary) (R645-103-422.700)**

- Reclamation is not technologically and economically feasible under the State Program. (R645-103-321)
- Operations will be incompatible with existing state or local land use plans or programs. (R645-103-322.100)
- Operations will affect fragile or historic lands and could result in significant damage to important historic, cultural, scientific or aesthetic values or natural systems. (R645-103-322.200)
- Operations will affect renewable resource lands and result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products. (R645-103-322.300)
- Operations will affect natural-hazard lands and could substantially endanger life and property. (R645-103-322.400)

*(See Attachment 1)*

**11. Provide Information (including competent and scientifically sound data sources) about: (Attach additional sheets and sources as necessary)**

A. The potential coal resources of the petition area: *(See Attachment 2)* (R645-103-422.810)

B. The demand for coal resources: (R645-103-422.812)

C. The impact of the unsuitability designation on the environment, economy and supply for coal: (R645-103-422.813)

*The environmental and wildlife habitat will be protected by the unsuitability designation. Coal mining is a threat to human health and the environment in and around the field as illustrated by the recent release of coal dust into the watershed by the Skyline Mine. (See Attachment 3)*

**12. Provide other information as may appropriately affect a determination on the petition: (R645-103-422.820)**

\_\_\_\_\_  
Petitioners Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**Notary Stamp:**

## **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;

The mine is located up stream from a trophy fishing reservoir under the jurisdiction of Utah State Parks. In addition, once the mine becomes active there will potentially be hundreds of freightliner capacity trucks carrying produced coal down highway 96 which runs through the town of Scofield and along the Scofield Reservoir. In addition to presenting a traffic hazard, this level of truck traffic will interfere with the use and enjoyment of the Reservoir by visitors and members of the community.

- 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;

The mine will be located within the city limits of the town of Scofield, UT. This town is highly dependent up the tourism economy which will be severally impacted by the noise, visual and water pollution resulting from the mine and the human health impacts of coal mining near residential and commercial buildings and activity.

- 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

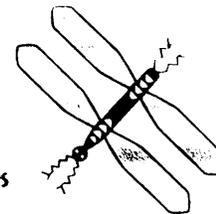
The mine will be located next to Mud Creek which contains a valuable fishery and other aquatic resources. That this type of mining activity is potentially detrimental to water quality in the Creek and elsewhere is illustrated by the leak of "fine coal" into clear Creek during the summer of 2008 and which was never cleaned up but did result in a fine being levied by DOGM. See Attachments D-E.

- 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.

The mine will be located within the city limits of the town of Scofield, UT. The human health impacts of coal mining near residential and commercial buildings and activity will be high. *See Appendix C-F.*

Center for  
**Water Advocacy**

Water Law and Policy Services



September 30, 2008

Dana Dean, Associate Director  
Division of Oil, Gas, and Mining  
1594 W. North Temple, Suite 1210  
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Salt Lake City, Utah 84114-5801  
[ogmcoal@utah.gov](mailto: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. 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. We hope that the following comments and requests will be helpful in the Utah Department of Oil, Gas and Minings (DOGMS) decision making process regarding the Application and addressing CWA's concerns about potential impacts to water resources.

**i. 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 or Rules). 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.

**a. General Requirements**

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The UCMPR, provides that all water quality analyses must meet:

the requirements of R645- 301-723 through R645-301-724.300, R645-301-724.500, R645-301-725 through R645-301-731, and R645-301-731.210 through R645- 301-731.223 will be conducted according to the methodology in the current edition of "Standard Methods for the Examination of Water and Wastewater"<sup>1</sup> or the methodology in 40 CFR Parts 136 and 434. Water quality sampling performed to meet the requirements of R645-301-723 through R645-301-724.300, R645-301-724.500, R645-301-725 through R645-301-731, and R645-301- 731.210 through R645-301-731.223 will be conducted according to either methodology listed above when feasible.

R645-301-723. The water quality analysis, in the Application, however, fails to meet these requirements.

**c. Baseline Information**

The UCMPR, provides that:

The application will include the following baseline hydrologic, geologic and climatologic information, and any additional information required by the Division...Ground Water Information. The location and ownership for the permit and adjacent areas of existing wells, springs and other ground-water resources, seasonal quality and quantity of ground water, and usage. Water quality descriptions will include, at a minimum, total dissolved solids or specific conductance corrected to 25 degrees C, pH, total iron and total manganese. Ground-water quantity descriptions will include, at a minimum, approximate rates of discharge or usage and depth to the water in the coal seam, and each water-bearing stratum above and potentially impacted stratum below the coal seam...Surface water information. The name, location, ownership and description of all surface- water bodies such as streams, lakes, and impoundments, the location of any discharge into any surface-water body in the proposed permit and adjacent areas, and information on surface-water quality and quantity sufficient to demonstrate seasonal variation and water usage. Water quality descriptions will include, at a minimum, baseline information on total suspended solids, total dissolved solids or specific conductance corrected to 25 degrees C, pH, total iron and total manganese. Baseline acidity and alkalinity information will be provided if there is a potential for acid drainage from the proposed mining operation. Water quantity descriptions will include, at a minimum, baseline information on seasonal flow

<sup>1</sup> "Standard Methods for the Examination of Water and Wastewater" is a joint publication of the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation and is available from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, D. C. 20036.

These drainage classifications indicate that the Scofield Reservoir and associated tributaries are designated for culinary use when treated, recreation, as cold water non-game fish habitat, and irrigation and stock watering with no associated natural resource waters restrictions other than applicable effluent standards for discharges.

App. at 3.7-19.

This does not satisfy the PHC determination analysis requirement which "will be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site." 728.200.

Nor does the Application include a discussion of the PHC determination which will include findings on... Whether adverse impacts may occur to the hydrologic balance and... Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface- or ground-water supplies. 728.300-320. Instead, the Application justifies this lack of required analysis by stating that:

Not applicable to Kinney Mine because no waste materials - incidental roof and floor rock - will be shipped out with the coal.

App. at 4.7-34.

Yet, the Application fails to provide what will be done with waste materials. In addition, the Rules provide that the Application must describe the "impact the proposed coal mining and reclamation operation will have on:...Sediment yield from the disturbed area." 728.330-331.

**Minor Reductions in Surface Flows and Alteration of Surface Flow Patterns Due to Operation of the Sedimentation Structure** - Although sedimentation ponds are integral to mitigating mining related impacts on the surface hydrologic system, operation of sedimentation ponds tends to reduce discharge flow volumes and extend the period of effective flow for runoff from both snowmelt and thunderstorm events. In effect, sedimentation ponds function as limited capacity flood control structures reducing the effective discharge rate for large volume flows through temporary storage and flow routing. The sedimentation pond is designed to gradually release impounded runoff following required retention for sediment control. Given provisions for retention and gradual discharge of retained storm flows, most of the runoff is returned to the surface drainage system with only a short lag time corresponding to the design retention time for the pond.

App. at 4.7-33.

Nor does the Application provide a plan for what happens to the land when mining ends. This is regardless of the fact that:

a post-mining land use program must be established in a Mining and Reclamation Plan and approved before mining begins. When mining stops, regulations require that the mine be sealed and the surface area be returned to approximate the original land contour, or conform to the

Further the rules require that the application include a description of whether "the proposed SURFACE COAL MINING AND RECLAMATION ACTIVITY will proximately result in contamination, diminution or interruption of an underground or surface source of water within the proposed permit or adjacent areas which is used for domestic, agricultural, industrial or other legitimate purpose" 728.340 and Whether the UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES conducted after October 24, 1992 may result in contamination, diminution or interruption of State-appropriated Water in existence within the proposed permit or adjacent areas at the time the application is submitted. 728.350.

The Application, however, dismisses these requirements by concluding that:

As discussed in Section 3.7, Hydrology Description, under the subheading water rights and replacement, and in Section 4.7.4.2, Potential for Adverse Effects, CR's mining and related operations are not expected to adversely impact any surface or ground water rights. Consequently, there is no reason to explicitly address provisions for replacement of impacted water rights at this time.

App. at 4.7-34.

Under Section 3.7, however, the only reference to the impacts to surface water rights provides that:

Since the mine is projected to be dry, and is not anticipated to have a mine discharge, there are no anticipated additive effects upon the local surface waters. In a similar manner, no impacts are believed possible to surface waters located within or west of Pleasant Valley and Mud Creek since surface drainages are discontinues east and west of the valley.

App. at Sect. 3.7-22.4

As a result, the Applicant fails to provide any justification such as well data, surface and ground water flow or any studies on water availability to justify this statement. As a result, the Application illegally circumvents the requirement of providing water rights and availability information by reaching an arbitrary and unfounded conclusion that such impacts will not take place.

Further the Application provides:

In the unlikely event... that proximate contamination, diminution, or interruption does occur, CR will mitigation these impacts through the purchase and augmentation of effected water rights, monetary

---

4 The Table of Context in the Application provides that there is also a discussion of ground water rights which are potentially impacted by the Mine on page 3.7-17. However, no such discussion of such water rights is found on this page or elsewhere in the Application.

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impacts of the operation upon the hydrologic balance: ... At all monitoring locations in streams, lakes and impoundments, that are potentially impacted or into which water will be discharged and at upstream monitoring locations, the total dissolved solids or specific conductance corrected to 25 degrees C, total suspended solids, pH, total iron, total manganese and flow will be monitored; and For point-source discharges, monitoring will be conducted in accordance with 40 CFR Parts 122 and 123, R645-301-751 and as required by the Utah Division of Environmental Health for National Pollutant Discharge Elimination System (NPDES) permits. 731.220-222.2

Further the Rules provide that:

the permit application will contain a description of measures to be taken to obtain Division approval for alteration or relocation of a natural drainageway under R645-301-358, R645-301-512.250, R645-301-527.100, R645-301-527.230, R645-301-534.100, R645-301-534.200, R645-301-534.300, R645-301-542.600, R645-301-742.410, R645-301-742.420, R645-301-752.200, and R645-301-762.732.410.

Rather than address drainageways, however, the Application merely provides:

The primary potential impacts on fish and aquatic species, aquatic habitat, and riparian vegetation which may result from the mining and related activities would be from drainage from the proposed sedimentation pond, or from alternative sediment controls used where drainage from small areas does not report to the sedimentation pond.

App. at 4.3-5.

### **Impoundments.**

In apparent response to the Rules requirements regarding impoundments, the Application provides that:

The sedimentation pond described in the preceding section is the only impoundment which will be utilized for drainage and sediment control purposes in conjunction with the Kinney mining and related operations. Applicable regulatory requirements for impoundments essentially duplicated the specified requirements for sedimentation ponds addressed above. Given limited pond size and capacity, the minimum design freeboard of 1 foot is more than adequate to resist overtopping of the embankment due to wave action or sudden increases in inflow.

App. at 4.7-25.

This description, however, completely fails to comply with the rules provisions for "General Plans" which requires that:

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738.

Instead of compliance with R645-301-748 or the temporarily sealing standard, however, the Application merely provides that groundwater level measurements, field water quality parameters and laboratory samples were taken following well installation and development, undefined "baseline sampling" and well monitoring was conducted for several wells in the project area.

App at 4.7-14.

#### Design Criteria and Plans

The Application fails to contain any of the following required information:

"Each permit application will include site-specific plans that incorporate minimum design criteria as set forth in R645-301-740 for the control of drainage from disturbed and undisturbed areas." 741.

Impoundments meeting the criteria of the MSHA, 30 CFR 77.216(a) will comply with the requirements of 77.216 and R645-301-512.240, R645-301-514.300, R645-301-515.200, R645-301-533.100 through R645-301-533.600, R645-301-733.220 through R645-301-733.224, and R645-301-743. The plan required to be submitted to the District Manager of MSHA under 30 CFR 77.216 will also be submitted to the Division as part of the permit application.

743.110.

Return of Coal Processing Waste to Abandoned Underground Workings. Each permit application to conduct UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES will, if appropriate, include a plan of proposed methods for returning coal processing waste to abandoned **underground workings as follows:**

The plan will describe the source of the hydraulic transport mediums, method of dewatering, the placed backfill, retainment of water underground, treatment of water if released to surface streams and the effect on the hydrologic regime;

The plan will describe each permanent monitoring well to be located in the backfilled areas, the stratum underlying the mined coal and gradient from the backfilled area; and

The requirements of R645-301-513.300, R645-301-528.321, R645-301-536.700, R645-301-746.410 and R645-746.420 will also apply to pneumatic backfilling operations, except where the operations are exempted by the Division from requirements specifying hydrologic monitoring.

## Threatened and Endangered Species

The Rules require that the applicant must provide "Listed or proposed endangered or threatened species of plants or animals or their critical habitats listed by the Secretary under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), or those species or habitats protected by similar state statutes." 322.210.

### Listed Species

#### Threatened Species

Bald Eagle \_\_\_\_\_ *Haliaeetus leucocephalus*  
Canada lynx \_\_\_\_\_ *Lynx Canadensis*

#### Endangered Species

Whooping crane (extirpated) \_\_\_\_\_ *Grus Americana*  
Black-footed ferret \_\_\_\_\_ *Mustela nigripes*  
(experimental, non-essential  
in Duchesne & Uintah counties)

#### Conservation Agreement Species

Northern goshawk \_\_\_\_\_ *Accipiter gentilis*

#### Candidate Species

Yellow-billed cuckoo \_\_\_\_\_ *Coccyzus americanus*

#### Species of Concern

Western toad \_\_\_\_\_ *Bufo boreas*  
Smooth greensnake \_\_\_\_\_ *Opheodrys vernalis*  
Burrowing owl \_\_\_\_\_ *Athene cucularia*  
Ferruginous hawk \_\_\_\_\_ *Buteo regalis*  
Sage Grouse \_\_\_\_\_ *Centrocercus urophasianus*  
Black swift \_\_\_\_\_ *Cypseloides niger*

Kinney No. 2 Mine  
2/18/2008

3.3-27

The Application entirely fails to provide information regarding

Habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes, or reproduction and wintering areas; or ... Other species or habitats identified through agency consultation as requiring special protection under state or federal law.

322.220-230.

#### Operation Plan.

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impoundments, establishment of vegetation for wildlife food and cover, and the replacement of perches and nest boxes. Where the plan does not include enhancement measures, a statement will be given explaining why enhancement is not practicable.

## Geology

The Rules provide that:

Geologic information will include, at a minimum, the following:...A description of the geology of the proposed permit and adjacent areas down to and including the deeper of either the stratum immediately below the lowest coal seam to be mined or any aquifer below the lowest coal seam to be mined which may be adversely impacted by mining. This description will include the regional and structural geology of the permit and adjacent areas, and other parameters which influence the required reclamation and it will also show how the regional and structural geology may affect the occurrence, availability, movement, quantity and quality of potentially impacted surface and ground water. It will be based on:...The cross sections, maps, and plans required by R645-301-622.100 through R645-301-622.400...The information obtained under R645-301-624.200, R645-301-624.300 and R645-301-625; and...Geologic literature and practices.

624.100-130

### Faults

There are two distinct styles of faulting within the district. The oldest system is a conjugate set of strike-slip and or oblique-slip vertical faults. The dominant half of this set is oriented north ~57deg. west. The minor half of the set is oriented north ~60 east. The most prominent faults in this system form the Fish Creek Graben, the UP-South-Saddle-Fault, the UP-North-Saddle-Fault, and the G-7 Fault. These structures were first formed in the early compressive episode and then were re-activated by regional uplift Figure 3.6-4.

Two other faults, Up-North Saddle Fault, and UP-South Saddle Fault, were formed in the same structural event that formed the fish Creek Graben. These faults limit the north south length of individual mining blocks in the area. See Appendix B.

### Transportation

The Application fails to provide any of the required information:

521.170. Transportation Facilities Maps. Each permit application will describe each road, conveyor, and rail system to be constructed, used, or maintained within the proposed permit area. The description will include a map, appropriate cross sections, and specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, drainage structure, and each stream ford that is used as a temporary route.

527. Transportation Facilities.

524.420. All blasting will be conducted between sunrise and sunset unless nighttime blasting is approved by the Division based upon a showing by the operator that the public will be protected from adverse noise and other impacts. The Division may specify more restrictive time periods for blasting;

**II. 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 UCMR 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.

The additional information lacking in the application along with the corresponding Surface Coal Mining Regulations includes:

**a. Climatological Information**

The UCMR provide that:

When requested by the Division, the permit application will contain a statement of the climatological factors that are representative of the proposed permit area, including:...The average seasonal precipitation...The average direction and velocity of prevailing winds; and ...Seasonal temperature ranges...The Division may request such additional data as deemed necessary to ensure compliance with the requirements of R645-301 and R645-302.

724.400, 410-13 & 420.

**724.500. Supplemental information.**

If the determination of the PHC required by R645-301-728 indicates that adverse impacts on or off the proposed permit area may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of ground-water or surface-water supplies, then information supplemental to that required under R645-301-724.100 and R645-301-724.200 will be provided to evaluate such probable hydrologic consequences and to plan remedial and reclamation activities. Such supplemental information may be based upon drilling, aquifer tests, hydrogeologic analysis of the water-bearing strata, flood flows, or analysis of other water quality or quantity characteristics.

affected by surface operations incident to an underground mine for UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES, expressed as average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management. The productivity will be determined by yield data or estimates for similar sites based on current data from the U. S. Department of Agriculture, state agricultural universities, or appropriate state natural resource or agricultural agencies.

**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;

The mine is located up stream from a trophy fishing reservoir under the jurisdiction of Utah State Parks. In addition, once the mine becomes active there will potentially be hundreds of freightliner capacity trucks carrying produced coal down highway 96 which runs through the town of Scofield and along the Scofield Reservoir. In addition to presenting a traffic hazard, this level of truck traffic will interfere with the use and enjoyment of the Reservoir by visitors and members of the community.

- 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;

The mine will be located within the city limits of the town of Scofield, UT. This town is highly dependent up the tourism economy which will be severally impacted by the noise, visual and water pollution resulting from the mine and the human health impacts of coal mining near residential and commercial buildings and activity.

- 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

The mine will be located next to Mud Creek which contains a valuable fishery and other aquatic resources. That this type of mining activity is potentially detrimental to water quality in the Creek and elsewhere is illustrated by the leak of "fine coal" into clear Creek during the summer of 2008 and which was never cleaned up but did result in a fine being levied by DOGM. See Attachments D-E.

- 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.

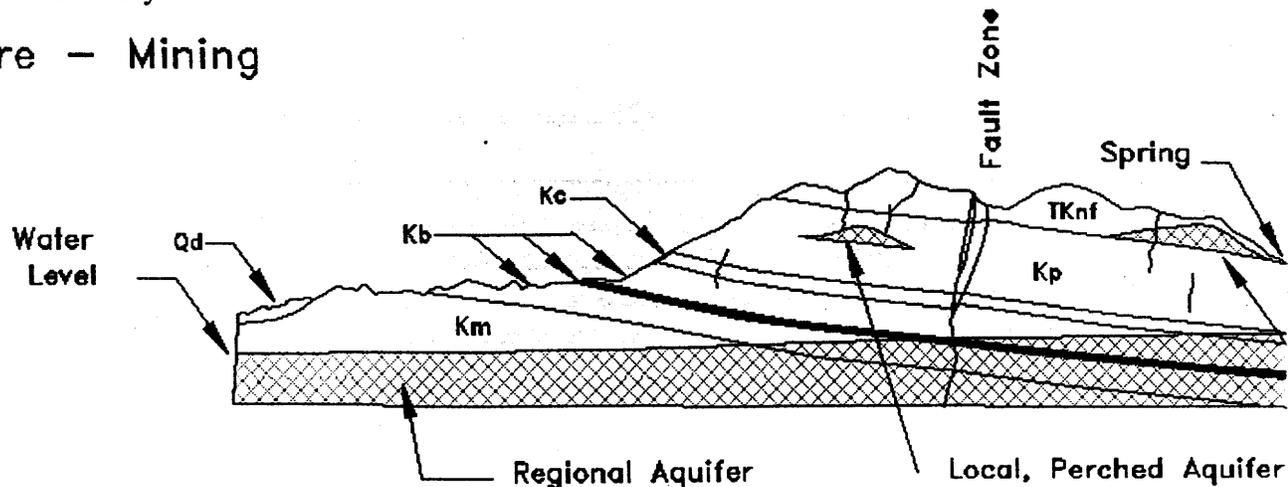
## APPENDIX A

### I. How Does Mining Intercept Water?

#### Pre-mining conditions

Below is a cross section depicting the Wasatch Plateau and Book Cliffs coal fields. Also illustrated are perched aquifer and regional aquifer systems. Unconfined ground water in perched aquifers is generally local in extent and influence. A regional water table or aquifer is generally unconfined and crosses formation boundaries, although it may be confined locally.

#### Pre - Mining



Qd = Quaternary alluvial, colluvial deposits \* TKnf = North Horn & Flagstaff Fins \* Kp = Price River Formation

Kc = Castle Gate Sandstone \* Kb = Black Hawk Formation (coal bearing) \* Km = Mancos Shale

#### Conditions during mining

Underground coal mining can result in subsidence of overlying rock. Cracks from subsidence extend upwards, and can reach the surface and intercept surface water. If rock thickness and strength are sufficient, the cracks will not reach the surface but may intercept ground water in perched aquifers above the mine workings and affect springs fed by these aquifers. If water in the regional aquifer is intercepted by the mine workings, the regional water table may be lowered as water is pumped from the mine to allow coal recovery.



## **1.0 INTRODUCTION**

Carbon Resources LLC (CR) is a wholly owned subsidiary of Western Reserve Coal Corporation, and has prepared this Mining and Reclamation Permit application for the Kinney No. 2 Mine, a proposed new underground mine complex. This permit application has been developed to effect full compliance with applicable permitting requirements under the State of Utah Coal Mining Rules and is being submitted for review and approval of the mining and reclamation plans contained herein by the Utah Division of Oil, Gas and Mining (UDOGM), and other jurisdictional agencies.

### **1.1 LOCATION AND GENERAL SETTING**

The proposed Kinney No. 2 Mine is located one half mile north of Scofield, Utah and east of Utah State Highway 96. Surface facilities will be located at the coal outcrop, and adjacent to the highway. The Kinney Mine permit area covers an area of approximately 448 acres as shown on Figure 1.0-1, General Location Map. Mining is planned in the Hiawatha coal seam from the outcrop at the edge of Pleasant Valley.

Entry will be achieved via an approximately 600 foot wide corridor between old abandoned mine workings and extract coal from multiple fault bounded reserve blocks. Maximum currently anticipated production is 800,000 tons annually utilizing continuous mining methods. Surface facilities are proposed to be located at the site of past mining in Sections 32 and 33 of Township 12 South, Range 7 East northeast of Scofield, Carbon County, Utah.

The Kinney Mine is located just north and east of the Town of Scofield, Utah, on the east side of Utah State Highway 96. The area is part of the Wasatch Plateau in Pleasant Valley, and is characterized by high plateaus to the east and Pleasant Valley to the west. Scofield Reservoir is located to the north and west of the permit area. The mine surface facilities are located on semi-arid mountainous land that is dry and sparsely populated by quaking aspen, a few fir trees, and brush. Within the permit area, topographic relief ranges from 7,650 feet, near the highway to over 8,800 feet on the ridge top east of the portal area.

The area is drained by small unnamed ephemeral channels near the portal area, Eagles Canyon over the ridge to the east of the mine site, and Long Canyon east of Eagles Canyon. All drainages eventually lead to Scofield Reservoir. Eagles Canyon is ephemeral, and Long Canyon contains a perennial stream. Several other very small unnamed ephemeral channels drain the permit area. The climate of the area is semi-arid and, with the exception of the noted perennial drainage, most area drainages flow only in response to spring snowmelt or major thunderstorm events. Ground water occurrence and use in the area is limited by low infiltration and recharge, and the relatively low permeability of most units of the geologic sequence. Soils are generally thin and poorly developed except in drainage valleys, where soil depths can reach 5 feet or more. Area vegetation is typical of semi-arid areas in the west and reflects the wide range of topographic conditions within the proposed



State of Utah  
Department of  
Natural Resources

MICHAEL R. STYLER  
Executive Director

Division of  
Oil, Gas & Mining

JOHN R. BAZA  
Division Director

JON M. HUNTSMAN, JR.  
Governor

GARY R. HERBERT  
Lieutenant Governor

Representatives Present During the Inspection:	
Company	Gregg Galecki Environmental Coordinator
OGM	Karl Houskeeper Environmental Scientist III

**Inspection Report**

Permit Number:	C0070005
Inspection Type:	COMPLETE
Inspection Date:	Wednesday, August 13, 2008
Start Date/Time:	8/13/2008 9:00:00 AM
End Date/Time:	8/13/2008 2:00:00 PM
Last Inspection:	Thursday, July 10, 2008

Inspector: Karl Houskeeper, Environmental Scientist III

Weather: Clear, Temp. 88 Deg. F.

Inspection ID Report Number: 1732

Accepted by: Jhefric  
9/8/2008

Permittee: CANYON FUEL COMPANY LLC  
Operator: CANYON FUEL COMPANY LLC  
Site: SKYLINE MINE  
Address: HC 35 BOX 380, HELPER UT 84526  
County: CARBON  
Permit Type: PERMANENT COAL PROGRAM  
Permit Status: ACTIVE

Current Acreages

10,374.00	Total Permitted
79.12	Total Disturbed
	Phase I
	Phase II
	Phase III

Mineral Ownership

- Federal
- State
- County
- Fee
- Other

Types of Operations

- Underground
- Surface
- Loadout
- Processing
- Reprocessing

Report summary and status for pending enforcement actions, permit conditions, Division Orders, and amendments:

The following permit conditions have been met or are being met:

- 1) Water Monitoring data is being submitted in an electronic format to the Division.
- 2) Canyon Fuel Co. must submit cumulative monthly flow data for discharges into Electric Lake and Eccles Creek. This condition is being met.

The 2007 Annual Report was reviewed as part of the complete inspection. A copy of the 2007 annual report review will be attached.

Inspector's Signature: \_\_\_\_\_

*Karl Houskeeper*

Date Wednesday, August 13, 2008

Karl Houskeeper, Environmental Scientist III

Inspector ID Number: 49

Note: This inspection report does not constitute an affidavit of compliance with the regulatory program of the Division of Oil, Gas and Mining.

1594 West North Temple, Suite 1210, PO Box 145801, Salt Lake City, UT 84114-5801  
telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • www.ogm.utah.gov

Permit Number: C0070005  
 Inspection Type: COMPLETE  
 Inspection Date: Wednesday, August 13, 2008

**REVIEW OF PERMIT PERFORMANCE STANDARDS PERMIT CONDITION REQUIREMENTS**

1. Substantiate the elements on this inspection by checking the appropriate performance standard.
  - a. For COMPLETE inspections provide narrative justification for any elements not fully inspected unless element is not appropriate to the site, in which case check Not Applicable.
  - b. For PARTIAL inspections check only the elements evaluated.
2. Document any noncompliance situation by reference the NOV issued at the appropriate performance standard listed below.
3. Reference any narratives written in conjunction with this inspection at the appropriate performance standard listed below.
4. Provide a brief status report for all pending enforcement actions, permit conditions, Divison Orders, and amendments.

	Evaluated	Not Applicable	Comment	Enforcement
1. Permits, Change, Transfer, Renewal, Sale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Signs and Markers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Topsoil	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.a Hydrologic Balance: Diversions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.b Hydrologic Balance: Sediment Ponds and Impoundments	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4.c Hydrologic Balance: Other Sediment Control Measures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.d Hydrologic Balance: Water Monitoring	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.e Hydrologic Balance: Effluent Limitations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Explosives	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Disposal of Excess Spoil, Fills, Benches	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Coal Mine Waste, Refuse Piles, Impoundments	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Noncoal Waste	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Protection of Fish, Wildlife and Related Environmental Issues	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Slides and Other Damage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Contemporaneous Reclamation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Backfilling And Grading	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Revegetation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Subsidence Control	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Cessation of Operations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.a Roads: Construction, Maintenance, Surfacing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16.b Roads: Drainage Controls	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Other Transportation Facilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Support Facilities, Utility Installations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. AVS Check	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. Air Quality Permit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
21. Bonding and Insurance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
22. Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**1. Permits, Change, Transfer, Renewal, Sale**

The current DOGM permit C/007/005 was issued effective 04/30/2007 and expires 04/30/2012.

-Certificate of Insurance policy number HDO G2 3732920, issued 07/31/2008 and terminates 07/31/2009.

-UPDES permit # UT0023540 effective 12/01/2004 and expires @ midnight 11/30/2009.

-Air Quality permit DAQE-AN0092007-03, issued June 24, 2003.

-SPCC Plan dated 07/07/05. The Plan is P.E. certified, stamped, signed and dated by a Utah P.E.

**2. Signs and Markers**

The Mine ID signs are at the point of public access to the permit area and contain the required information. All other signs and markers are in accordance with the coal rules.

**4.b Hydrologic Balance: Sediment Ponds and Impoundments**

The second quarter 2008 pond inspections were done May 28, 2008, no problems were noted.

The sediment pond at the main facilities is currently being cleaned. A hole in the base of the outlet structure allow three separate releases of coal laden sediment to short circuit the system and discharge into Eccles Creek. Citation 10028 was issued for failure to maintain. The abatement date is to stop the release of coal laden sediment immediately and to repair the discharge structure by September 15, 2008.

**4.d Hydrologic Balance: Water Monitoring**

First quarter 2008 water monitoring is in the EDI website and has been uploaded. Second quarter 2008 water monitoring is in the EDI website, but has not been uploaded. Water monitoring is current.

**7. Coal Mine Waste, Refuse Piles, Impoundments**

The refuse pile located near the town of Scofield was last inspected and P.E. certified on July 14,, 2008. No problems were noted.

**20. Air Quality Permit**

The Air Quality Permit Approval Order DAQE-AN0092007-03 was issued on June 24, 2003. The permit remains effective.

**21. Bonding and Insurance**

The current bond is \$5,137,000.00 as of September 19, 2006. The previous bond amount was \$5,076,000.00.

## 2007 Annual Report Review

**Permittee:** Canyon Fuel Company, LLC  
**Mine Name:** Skyline Mine  
**Permit Number:** C/007/0005  
**Date Report Received:** June 26, 2008

**Assigned Reviewer:** Karl R. Houskeeper

**Date Completed**  
July 30, 2008

**Instructions:** The assigned inspector will review the Annual report during the third quarter complete inspection and provide a written determination (finding) on how the mine has or has not met the permit requirements for reporting. If the report is deficient or remedial action is required to obtain compliance, this should be noted and the mine lead notified. A copy of this review will be filed with the Inspection Report. Should any of the sections require additional technical analysis, the inspector will notify the permit supervisor so that it can be scheduled during the 4<sup>th</sup> quarter.

SECTIONS TO REVIEW	SUBMITTED			FINDINGS
	YES	NO	NA	
Cover Sheet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
General Information	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Identification of other Permits	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Annual Impoundment Certification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Annual Overburden, Spoil, Refuse, Floor, etc. Certified Report	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Appendix A contains a copy of the refuse pile certifications and the impoundment inspections and annual certification.
<b>Annual Technical Requirements (Commitments)</b>				
Climatological	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Subsidence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A subsidence map that shows cumulative subsidence contours through 2007 is contained in the 2007 annual report. The contours are at 2 foot intervals and were derived from aerial surveys.
Vegetation monitoring	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vegetation reports were submitted as part of the 2007 annual report. The reports should be reviewed by a Division Biologist.
Raptor Survey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Soils Monitoring	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Water Monitoring	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Geological/Geophysical	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Engineering	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Non-Coal Waste	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Abandoned Underground Equipment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
AVS; Legal/ Financial Update	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Mine Sequence Map	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Marked Confidential.
Other Information	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	