

ACT/015/004

BEFORE THE DIVISION OF OIL, GAS, AND MINING
DEPARTMENT OF NATURAL RESOURCES
in and for the STATE OF UTAH

IN THE MATTER OF THE APPLI-)	
CATION OF SWISHER COAL COMPANY))	
FOR APPROVAL OF A ROAD AT)	FINDINGS OF FACT
THE HUNTINGTON CANYON #4 MINE,)	
PURSUANT TO THE PROVISIONS)	CONCLUSIONS AND ORDER
OF SECTION 717.17 (j)(2)(ii))	
OF THE RULES AND REGULATIONS)	Cause No. OSM-004
PROMULGATED UNDER THE)	
SURFACE MINING CONTROL)	
AND RECLAMATION ACT)	
(Public Law 95-87))	

As authorized by the laws of the State of Utah, 1978 second special session Chapter 5, the above-entitled matter came on for hearing before Cleon B. Feight, Hearing Examiner, at nine o'clock a.m., on Tuesday August 22, 1978, in the Executive Conference Room, Holiday Inn, 1659 West North Temple, Salt Lake City, Utah.

In addition to the hearing officer, the matter was heard by the following members of the staff who were present and participating:

Ron Daniels	Coordinator of Mined Land Development
Mike Minder	Reclamation Engineer
James W. Smith	Reclamation Soil Specialist
Michael Thompson	Reclamation Hydrologist

The following individual was sworn in and testified on behalf of applicant:

Dave Shaver	Chief Engineer, Swisher Coal Company
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Other appearances were as follows:

William Boley	Forest Engineer, member, Board Supervisors Staff of the Manti-LaSal National Forest
Carl Westberg	Consultant for Pacific Gas & Electric Company of San Francisco

Having been appointed hearing examiner by the Board for the purpose of taking evidence and recommending findings of fact and conclusions of law for ultimate disposition by the Board, the hearing

examiner having heard and considered the testimony of all of the witnesses and all evidence and exhibits introduced and received during the course of the hearing and being fully advised in the premises, now, therefore recommends to the Board the following Findings of Fact and Conclusions.

FINDINGS OF FACT

1. The Board has the authority under applicable law to make and enter the order set forth below.

2. Due, proper and legal notice of the time, place and purpose of the hearing was given to all interested parties in the form and in the manner and within the time prescribed by the rules and regulations of the Board and the Mined Land Reclamation Act of the State of Utah.

3. Swisher Coal Company owns and, under contract, operates the Huntington Canyon #4 Mine, Emery County, Utah, which is an underground coal mining operation.

4. The road as presently designed, although mainly on fee land, was approved by the United States Forest Service. Said approval was based upon an environmental analysis report prepared by said agency to cover the entire or total mining complex.

5. The Company engineers who designed the original road have since considered alternatives necessary to comply with the Surface Mining Reclamation and Enforcement Provisions. Any realignment of the road is met by various constraints as the road is already basically on bedrock and traverses a ledge. It is this section that does not conform to the applicable regulations. The road grade in this section is approximately 13 percent for a distance of approximately 1,000 feet.

6. Reconstruction of the road to meet an overall sustained grade specification of 10 percent would expose approximately 2.3 additional acres of disturbed area. Such reconstruction would encroach into the ledge, requiring extensive blasting and removal of material to accomplish

stabilization. This would cut deep into the sandstone cliffs and would require the removal of approximately 6,600 cubic yards of additional material.

7. Earth work operations required to comply with provisions of Section 717.17(j) would force the removal of existing vegetal cover consisting of pinyon, juniper, blue spruce and sparse grasses in the bottom of the canyon. Also, reconstruction of the road to reduce the grade to comply with the above regulation would result in substantially more erosion since the soils have moderate to high inherent erodibility and severe limitations for revegetation.

8. Any realignment of the road would require additional approval of the U.S. Forest Service. The U.S. Forest Service is opposed to realignment which would increase the amount of disturbed area and consequent erosion. Obtaining such approvals would involve months of time and would make it impossible for Swisher Coal Company to operate the Huntington Canyon #4 Mine until construction work was completed as the road under consideration is the only access to the mine. Unless construction is commenced immediately, it would not be completed by winter.

CONCLUSIONS

1. The road as presently constructed has already stabilized and there has not been any severe erosion noted.

2. To reconstruct said road would result in substantially more degradation of the environment and would result in considerably more erosion.

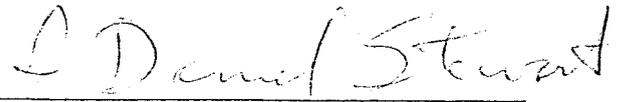
The Board having considered the recommended Findings of Fact and Conclusions and being fully advised in the premises, now makes and enters the following; conditional upon approval by the Office of Surface Mining:

ORDER

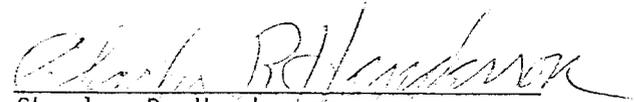
That in order to minimize erosion and subsequent disturbance of the hydrologic balance the applicant is hereby granted an exception as authorized by Section 717.17(j)(2)(ii) of the Rules and Regulations adopted pursuant to Public Law 95-87.

DATED this 27th day of September, 1978.

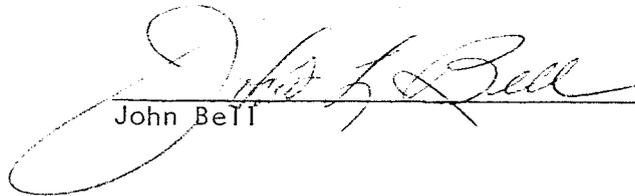
STATE OF UTAH
BOARD OF OIL, GAS, AND MINING



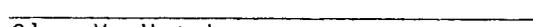
I. Daniel Stewart, Chairman



Charles R. Henderson



John Bell


C. Ray Juvelin
Thadis W. Box
Glen M. Hatch
E. Steele McIntyre