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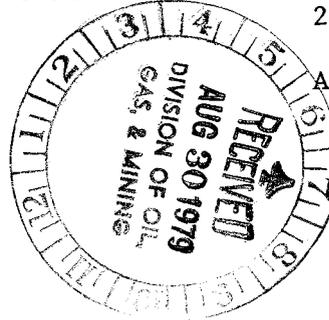
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UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
Manti-LaSal National Forest  
350 East Main Street  
Price, Utah 84501

2820

August 24, 1979

Mr. Don Crane  
Office of Surface Mining  
Denver Regional Office  
Room 270, Post Office Bldg.  
1823 Stout Street  
Denver, Colorado 80202



Reference: Stipulations on Swisher No. 4 Mine Plan Approval

Dear Don:

We have reviewed the State of Utah's memorandum of August 2, 1979, covering the stipulations for Swisher's No. 4 Coal Mine, as pertains to the mine plan approval.

Evidently there is some question on what the objective is for subsidence, hydrologic and vegetative monitoring, and how those objectives can be accomplished. In the Forest Service environmental assessment for Swisher No. 4 Mine, dated 9/20/77, we established the objectives of monitoring the effects of underground mining on the topography, specifically related to subsidence, underground and surface hydrology, and the corresponding effects on the vegetation. To accomplish this objective, we have developed a plan utilizing aerial photography coupled with the corresponding ground observations and control.

We have patterned the vegetative portion of the study from range analysis practices developed in the Forest Service. Attached are copies of a typical vegetative map produced from aerial photographs. The range analysis process provides information on forage production, species composition, and vegetative and soil trends. These data are used in determining livestock carrying capacity over the whole area. On selected sites within the area, permanent study transects are located. These transects are coordinated with the photogrammetric data and are used to determine the long-term soil and vegetative trend resulting from use of the area. These evaluations and studies are repeated at intervals as dictated by need. It is our intent that the effects of coal mining on vegetation be monitored using existing range transects and installing additional ones as necessary.

This information is further assimilated into other forms to be used in wildlife habitat determinations. A balance of feeding areas versus cover used for hiding and thermal protection is an extremely important component of the wildlife habitat. This is especially true on winter ranges. Annual low-level photography would allow a wildlife biologist to monitor and coordinate the wildlife needs and impact over the mining area to maintain a desirable balance.

We have previously discussed the other aspects of the subsidence monitoring program and the value in requiring that this be done photogrammetrically. Within the limits of economics and the data to be gathered, we do not know of a conventional survey system that will suffice. We feel that the program utilizing photoimagery will fill the needs of ourselves and others that may require this information as a matter of record.

As pertains to the Swisher Coal Company and the Swisher No. 4 Mine, they are in the process of submitting to you a program utilizing the monitoring program, as described. Evidently the State of Utah has no objections to this approach.

We wish to state at this time that the approval for this process is not necessarily irreversible; that if it can be demonstrated that another method of monitoring can achieve the required results, the Forest Service would be amenable to its use. It is also recognized that this approach may not be applicable for use in all types of terrain or vegetative types; that the requirements for monitoring on all lands or by all surface owners may not be the same.

Item 11 of the special stipulations relates to the sedimentation pond design and the corresponding channels and discharge structures. We agree with the requirement on using the 24-hour event for retention capacity, but question using this data for discharge requirements. The 6-hour storm is more applicable in mountainous terrain and would produce a higher peak flow.

Items 20, 21, 26, and 31 deal primarily with roads. That portion of road from the junction of Highway 31 to the point where the road leaves the canyon bottom is identified as Forest Development Road 50245. All activities involving the Forest transportation system--that is, administration, construction, reconstruction, and maintenance--are regulated, approved, and enforced by the Forest Service. Contrary to common belief, Forest roads are not public roads nor are they subject to rules or regulations imposed by another government agency or authority. We do not anticipate that this jurisdiction will present any

problems to either agency in this project. We are charged to maintain a close liaison in the spirit of cooperation with all other agencies and organizations in matters relating to transportation. Those items that involve restrictions or regulations will have to be imposed on the user through our permit system.

Hauling operations for Swisher Coal Company are presently authorized by a "Road Use Permit." We have attached a copy of this permit for your review. These permits are bonded and may be charge permits based on the capital recovery cost of the road. They do not usually entitle the user to exclusive use of the road, although in some instances this may be done for safety reasons. The user may be obligated for maintenance, reconstruction, surfacing, or other costs, depending on his particular road use.

Since these roads may be used for a multiplicity of hauling operations, of which coal may be only one, it is important that the rules that are established be compatible. We foresee potential problems if this procedure is not established through our respective authorities, as pertains to our particular user groups. The OSM may establish a procedure for the user group under its administration that would not be compatible with the rules established for the user group regulated by the Forest Service. Of course, the converse of this statement would also be true.

The road is planned to be constructed on up the canyon to provide access to other mines and to existing timber stands. Each user group will be required to assume their proportionate share of the maintenance of the road and any reconstruction costs.

Item 20 deals with establishing a maximum speed for trucks hauling coal. The road has a design speed of 25 miles per hour and is compatible with this stipulation. We will include this in our road use permit on your concurrence.

Item 21 establishes rules for daylight haul. In the years since the mine has been in operation, we have not experienced a problem with road kills, as pertains to wildlife, at this location. We recognize that particularly during the winter months, especially during a severe winter, that deer and elk do use the area and that the potential for a problem exists. To place a restriction for hauling on all times of the year does not appear to be necessary and does place a burden on the coal operator that may not be warranted. We would recommend that this stipulation be directed to the recognition of a problem, if it occurs, as a contingency item. We would not impose this type of restriction on a timber sale operation, or public

vehicles utilizing the road, without the identification of a specific problem. We will hold this item in abeyance until we hear from you. We do request that the mining operator be required to report and make record of all road kills in conjunction with his operation, as an aid in quantifying any potential problem.

Item 25. A portion of the wildlife study as pertains to habitat will be done, as explained in the preceding paragraphs, using photoimagery. Pellet counts and browse utilization are also recorded as part of the wildlife studies. Although the operator has a primary responsibility for any studies associated with his operation, the Forest Service will make any data they collect available to the operators for their use. In some cases, the requirement for data for studies may be a portion of our regularly scheduled work associated with a Forest program.

Item 26. Item 9a of the Road Use Permit speaks to dust control on the Forest Development Road. We have required that dust be controlled to the extent possible, using water as an agent. This is an interim measure. An adequate bituminous surface must be provided over the entire haul route, as per the agreement. We do not favor the use of chemical agents as dust suppressants on this particular road. We have also restricted the use of coal dust for wintertime operations. Please advise us if this measure meets with the intent of this stipulation.

Item 31. Since a Forest Development Road is a permanent part of the Forest Transportation System, no plans for obliteration will be necessary. In some cases on Forest Development Roads where the road is extremely large to accommodate coal haul traffic, it may be necessary to reduce the size of a road at the termination of the coal hauling operation to a size compatible with other resource uses. We understand that this decision may be delayed until the end of the coal mining activity.

The items discussed under Forest Development Roads do not pertain to temporary roads or roads associated with the exclusive use of the mining operation. In some instances, where a road must be authorized under a special use permit, we will need to closely coordinate the terms of a permit with the OSM regulations.

We appreciate the opportunity to review with you these stipulations and will welcome any comments and questions you may have concerning our procedures or recommendations.

Sincerely,

*W. H. Bohay*

for  
REED C. CHRISTENSEN  
Forest Supervisor

Enclosures

cc:

RO - Minerals

RO - Engineering

D-3

Swisher

Utah State Oil, Gas, and Mining ✓













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of deposit of not less than hundred thousand\$ 100,000.00 ). As soon as security for the performance of road maintenance (and betterment) requirements or the settlement of claims incident thereto is completed, unencumbered cash guarantees or negotiable securities deposited in lieu of surety bond will be returned to the permittee.

11. **FIRE PREVENTION AND SUPPRESSION.** The permittee shall take all reasonable precautions to prevent and suppress Forest fires. No material shall be disposed of by burning in open fires during the closed season established by law or regulation without a written permit from the Forest Service.

12. **DAMAGES.** The permittee shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and promptly upon demand shall pay the United States for any damage resulting from negligence, or from violation of the terms of this permit or of any law or regulation applicable to the National Forests, by the permittee, or by his agents, contractors, or employees of the permittee acting within the scope of their agency, contract, or employment.

13. **OFFICIALS NOT TO BENEFIT.** No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

14. **OUTSTANDING RIGHTS.** This permit is subject to all outstanding rights.

15. **SUSPENSION.** Upon the failure of the permittee, its agents, employees or contractors to comply with any of the requirements of this permit, the officer issuing the permit may suspend operations in pursuance of this permit.

16. **TERMINATION.** This permit shall terminate on January 1, 1986 unless extended in writing by the Forest Service. It may be terminated upon breach of any conditions herein. This permit shall be reviewed annually and is subject to revision.

17. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provisions thereof, the following clauses will control.

18. The Environmental Analysis Report developed for this project shall be made a part of this permit. The permit is subject to the guidelines and recommendations developed in that report.

19. Before final acceptance, buildings, roadways, borrow pits, quarries, and all ground occupied by the Contractor in connection with the work shall be cleaned of all rubbish, excessive materials, temporary structures and equipment, and all parts of the work shall be left in a neat and presentable condition. Cleanup will include roughly spreading the overlying material and topsoil back over disturbed areas in such a manner so that water will not collect in low areas. All slopes will be smooth and uniform.

(Continuation)

2-1. Work Required to Accommodate Permitted Use

The attached plans, general provision, general specifications, and construction details shall be used and shall be adhered to as follows:

- A. The Permittee shall supply the materials to construct the bridge and road including material certification. The certifications are to be forwarded to the Manti-LaSal National Forest for confirmation prior to installation or erection. The Permittee shall also supply the corrugated metal culvert, aggregate, and bitumen surfacing materials needed to construct the road.
- B. The Permittee shall provide quality control inspections during construction. Such inspection will include but not be limited to:
  - 1. That pipe and bridge materials are of the proper size, shape, gage, and quality as specified.
  - 2. That compactive effort is maintained as specified through inplace density tests. This action will require that the permittee obtain moisture density curves for field samples prior to beginning construction activities.
  - 3. That aggregate surfacing gradations meet the specifications.
  - 4. That constructed sections conform to the lines and grades as shown on the plans and staked on the ground by the Forest Service.
- C. The inspectors provided by the Permittee shall be qualified to take the tests called for in the specifications. The inspectors shall certify in writing that the work and materials comply with the specifications.
- D. Where materials are delivered to the job site, certification shall be made and given to the Forest Service prior to installation of the materials. A copy of the suppliers certification shall be forwarded to the Forest Service.
- E. In the attached specifications, the term "Contractor" refers to the Permittee, the Swisher Coal Company. The term "Engineer" refers to the person or persons designated by the Permittee as their Project Engineer. Inspection by the Forest Service will be done to insure that the Permittee's inspectors require compliance with the specifications.
- F. The term Contracting Officer refers to the Forest Supervisor.
- G. The Swisher Coal Company will take the necessary steps to obtain a responsible contractor, as determined by a review of said contractor's past performance and financial capabilities. Said contractor will be agreeable to all parties of this permit.

(Continuation)

9a. Maintenance and Resurfacing Requirements and Specifications

It is the intent of this permit that at some future time, the Permittee will provide an adequate bituminous pavement structure over the entire haul route. This second stage of construction concerning bituminous surfacing shall commence at such time as degradation of the gravel surface and dust abatement can no longer be contained by routine maintenance.

The specifications developed as a part of this contract contain no references to bituminous surfacing requirements. Such specifications and requirements will be developed by the Forest Service at that time.

Amendment to the Road Use Permit  
Issued to Swisher Coal Company 10/12/1976

The continuation sheet for 2-1 should be modified as follows:

Sections A through D will remain the same.

Section E will be deleted and the following inserted in its place:

In the attached specifications, the term "Contractor" refers to the Permittee, the Swisher Coal Company. The term "Engineer" refers to a Forest Service engineer designated by the Forest Engineer. The Contractor will pay for the Engineer's services. It is estimated these services will cost \$5,000. The Contractor will deposit \$5,000 in advance of services being provided by the Forest Service. Upon completion of work any balances will be refunded to the Contractor.

Sections F and G will remain the same.

ACCEPTED	Permittee (Name and Signature)	Date
	<i>Thos R. [Signature] (Swisher Coal Co.)</i>	11/5/76
APPROVED	Issuing Officer (Name and Signature)	Date
<i>DR</i>	<i>William B. Daley Acting Forest Supervisor</i>	11/8/76