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FEDERAL
(February 1985)

Permit Number ACT/015/004 , 4/85

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DIVISION OF OIL
GAS & MINING

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
(801) 538-5340

This permit, ACT/015/004 , which incorporates the Office of Surface Mining (OSM) Permit UT-0004 , is issued for the state of Utah by the Utah Division of Oil, Gas and Mining (DOGM) to:

Beaver Creek Coal Company
P. O. Box 1378
Price, Utah 84501

for the Huntington #4 Mine. Beaver Creek Coal Company is the lessee of federal coal leases U-33454 and SL-064903, the lessee of state coal leases NA , and/or the lessee/owner of certain fee-owned parcels 717.5 acres . The permit is not valid until a performance bond is filed with the DOGM in the amount of $360,104.00 (1989 $), payable to the state of Utah, Division of Oil, Gas and Mining and OSM, and the DOGM has received a copy of this permit signed and dated by the permittee.

Sec. 1 STATUTES AND REGULATIONS - This permit is issued pursuant to the Utah Coal Mining and Relamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as UCMRA.

Sec. 2 The permittee is authorized to conduct surface coal mining and reclamation operations on the following described lands (as shown on ownership map) within the permit area at the Huntingtion #4 Mine situated in the state of Utah, Emery County, and located:

Township 16 South, Range 7 East, SLBM
Section 8: S1/4 SE1/4
Section 16: NW1/4 NE1/4, N1/2 NW1/4, SW1/4 NW1/4, NW1/4 SW1/4
Section 17: NE1/4

Township 16 South, Range 7 East, SLBM
Section 16: NE1/4 SW1/4, NW1/4 SE1/4, SE1/4 NW1/4, SW1/4 NE1/4

Township 16 South, Range 7 East, SLBM
Section 9: SW1/4 SE1/4, SE1/4 SW1/4, SW1/4 SW1/4

Township 16 South, Range 7 East, SLBM
Section 17: W1/2 SE1/4

This legal description is for the permit boundary (as shown on the permit area map) of the Huntington #4 Mine. The permittee is authorized to conduct surface and reclamation operations connected with mining on the foregoing described property subject to the conditions of the leases, the approved mining plan, and OSM permit UT-0004, to be issued April 10, 1985, including all conditions and all other applicable conditions, laws and regulations.

Sec. 3 This permit is issued for a term of five (5) years commencing on the date the permit is signed by the permittee, except that this permit will terminate if the permittee has not begun the surface coal mining and reclamation operations covered herein within three (3) years of the date of issuance.

Sec. 4 The permit rights may not be transferred, assigned or sold without the approval of the Director, DOGM. Request for transfer, assignment or sale of permit rights must be done in accordance with applicable regulations including but not limited to 30 CFR 740.13(e) and UMC 788.17-.19.

Sec. 5 The permittee shall allow the authorized representative of the DOGM, including but not limited to inspectors, and representatives o the Office of Surface Mining, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:

A. have the rights of entry provided for in 30 CFR 840.12, UMC 840.12, 30 CFR 842.13 and UMC 842.13; and,

B. be accompanied by private persons for the purpose of conducting an inspection in accordance with UMC 842.12 and 30 CFR 842, when the inspection is in response to an alleged violation reported by the private person.

Sec. 6 The permittee shall conduct surface coal mining and reclamation operations only on those lands specifically designated as within the permit area on the maps submitted in the mining plan and permit application and approved for the term of the permit and which are subject to the performance bond.

Sec. 7 The permittee shall minimize any adverse impact to the environment or public health and safety including but not limited to:

A. accelerated monitoring to determine the nature and extent of noncompliance and the results of the noncompliance;

B. immediate implementation of measures necessary to comply; and

C. warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

Sec. 8 The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

Sec. 9 The lessee shall conduct its operations:

A. in accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and

B. utilizing methods specified as conditions of the permit by DOGM and OSM in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 10 The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.

Sec. 11 The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq,) and the Clean Air Act (42 USC 7401 et seq), UCA 26-11-1 et seq, and UCA 26-13-1 et seq.

Sec. 12 Upon expiration, this permit may be renewed for areas within the boundaries of the existing permit in accordance with the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 13 If during the course of mining operations, previously unidentified cultural resources are discovered, the applicant shall ensure that the site(s) is not disturbed and shall notify the state Regulatory Authority (RA). The state RA, after coordination with OSM, shall inform the operator of necessary actions required.

Sec. 14 APPEALS - The lessee shall have the right to appeal: (a) under 30 CFR 775 from actions or decisions of any official of OSM; (b) under 43 CFR 3000.4 from an action or decision of any official of the Bureau of Land Management; (c) under 30 CFR 290 from an action, order or decision of any official of the Minerals Management Service; or (d) under applicable regulations from any action or decision of any other official of the Department of the Interior arising in connection with this permit. In addition, the lessee shall have the right to appeal as provided for under UMC 787.

Sec. 15 SPECIAL CONDITIONS - In addition to the general obligations and of performance set out in the leases, OSM permit UT-0004 and this permit, the permittee shall comply with the special conditions of OSM permit UT-0004 and the conditions appended hereto as Attachment A.

The above conditions (Secs. 1-15) are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them. These conditions may be revised or amended, in writing, by the mutual consent of the grantor and the permittee at any time to adjust to changed conditions or to correct an oversight. The grantor may amend these conditions at any time without the consent of the permittee in order to make them consistent with any new federal or state statutes and any new regulations.

THE STATE OF UTAH

By: Dianne R. Nielson

Date: April 10, 1985

I certify that I have read and understand the requirements of this permit and any special conditions attached.

Authorized Representative of
the Permittee

Date: April 29, 1985

APPROVED AS TO FORM:

By: Barbara W. Roberts
Assistant Attorney General

Date: April 10, 1985

0216R

Attachment A

SPECIAL CONDITIONS

1. Results from soil analysis, identification of the best available topsoil substitute materials, estimates of material volumes for final reclamation, and a commitment to selectively place the best suitable topsoil substitute material during final reclamation of the pumphouse must be submitted to the regulatory authority for approval no later than June 1, 1985. At a minimum, the analyses must include data on soil texture, pH, EC, SAR, N, P, and K. A sufficient number of samples must be taken to adequately characterize this material.

2. The regulatory authority is willing to grant a variance to the requirements of UMC 817.44(b)(2) if the permittee can adequately demonstrate to the regulatory authority that these cross-sections represent a conclusive demonstration of comparable, adjacent drainage. The following parameters will have to be demonstrated in order to assess the comparability of the two watershed systems.

   1. Similar drainage area and channel capacity.

   2. Similar slopes and aspects.

   3. Cross-sections must be located in an area which gives comparable channel configurations.

   4. Natural armoring or riprap size must be noted, as well as natural energy dissipators (i.e., large boulders, log jams, drops and eddies, etc.) so they can be engineered into the new designs.

   These requirements must be met during the site visit in the spring of 1985 and the permittee must submit within 30 days of this site visit adequate plans for the proposed stream channel reclamation plans. These plans must include the following engineering designs at a minimum:

   1. Energy dissipators within the channel at crucial points; namely where flows come onto the upper pad and drop off the cliff area below the upper pad onto the lower pad.

   2. A design flow and channel configuration criteria compatible with this condition and 817.44(d)(1) (2)(3).

3. The permittee shall sample on a quarterly basis until bond release any discharges from the underground workings which occur after mining. Sampling will assess if discharges are in compliance with the effluent standards of UMC 817.42 and all other applicable State and Federal regulations. The permittee will provide treatment, if necessary, of any discharges to achieve compliance with applicable standards during the period of discharge.

4. The permittee shall provide, within 60 days of the effective date of this permit, documentation of assignment or transfer of 800 shares in the Huntington-Cleveland Irrigation Company from the Hardy Coal Company to Beaver Creek Coal Company.

5. Within 15 days of the effective date of this permit, the operator must revise the permanent seed mixture for the riparian area by including at least two forb species. The species must meet all the requirements of this section and UMC 817.97.

6. Within 15 days of the effective date of this permit, the operator must revise the tree seedling stocking rate for the pinyon-juniper-curl leaf-mountain mahogany vegetation type (Table 3-2) by replacing the pinyon and juniper seedlings with an equal number of seedlings of woody shrub species native to the area. The species must meet all the requirements of this section and UMC 817.97.

7. Before any site redisturbance occurs, the permittee must conduct a survey, under the supervision of the regulatory authority, of the areas to be redisturbed. The survey shall identify and record locations of individuals and populations of Hedysarum occidentale var. canone (canyon sweet-vetch). If canyon sweet-vetch is found in portions of the permit area to be redisturbed, the permittee must develop and submit a mitigation plan for regulatory authority approval and after approval implement this plan before redisturbance occurs.

8. The entrance gate to the mine facilities must not be dismantled until after reclamation operations are completed and permanent self regenerating vegetation is established on the reclaimed mine site. The gate should remain locked to prevent public vehicle access to the reclaimed area. Written permission must be obtained from the Forest Supervisor of the Manti-LaSal National Forest prior to removal of the gate.

9. If existing raptor nests are affected by mine related subsidence, the permittee shall replace or otherwise mitigate the nest loss in consultation with the U.S. Fish and Wildlife Service and the Utah Division of Wildlife Resources according to the requirements of UMC 784.21 and UMC 817.97. Notification of the loss to the above agencies and the regulatory authority must take place within two working days of the permittee's discovery of the loss.