

PERMIT CHANGE TRACKING FORM

- Significant Permit Revision
- Permit Amendment
- Incidental Boundary Change

Bond Release

DATE RECEIVED <i>3/22/96</i>	By: <i>pgf</i> (Initial)	PERMIT NUMBER	ACT/015/004
Title of Proposal:		PERMIT CHANGE #	<i>96A</i>
Description: <i>Phase III Bond Release Application</i>		PERMITTEE	MOUNTAIN COAL COMPANY
		MINE NAME	HUNTINGTON CANYON #4 MINE

<input type="checkbox"/> 15 DAY INITIAL RESPONSE TO PERMIT CHANGE APPLICATION <input type="checkbox"/> Notice of Review Status of proposed permit change sent to the Permittee. <input type="checkbox"/> Responses Received. <input type="checkbox"/> Notice of Affidavit of Publication. (If change is a Significant Revision.)	DATE DUE	DATE DONE	RESULT
			<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED
COMMENTS			

REVIEW TRACKING	INITIAL REVIEW		MODIFIED REVIEW		FINAL REVIEW AND FINDINGS	
DOGIM REVIEWER	DUE	DONE	DUE	DONE	DUE	DONE
<input type="checkbox"/> Lead						
<input type="checkbox"/> TA (See Attached)						
<input type="checkbox"/> Reviewers			<i>Review sent 10/24/96</i>			
<input type="checkbox"/> Administrative (AVS)						
<input type="checkbox"/> Biology <i>Susan</i>			<i>Response received 3/10/97</i>		<i>5/5/97</i>	
<input type="checkbox"/> Engineering <i>Jess</i>					<i>5/5/97</i>	
<input type="checkbox"/> Geology						
<input type="checkbox"/> Soils						
<input type="checkbox"/> Hydrology <i>Sharon</i>					<i>5/5/97</i>	

COORDINATED REVIEWS	SENT	DUE	RECEIVED	SENT	DUE	DONE
<input type="checkbox"/> OSMRE						
<input type="checkbox"/> US Forest Service						
<input type="checkbox"/> Bureau of Land Management						
<input type="checkbox"/> US Fish and Wildlife Service						
<input type="checkbox"/> US National Parks Service						
<input type="checkbox"/> UT Environmental Quality						
<input type="checkbox"/> UT Water Resources						
<input type="checkbox"/> UT Water Rights						
<input type="checkbox"/> UT Wildlife Resources						
<input type="checkbox"/> UT State History (SHPO)						
<input type="checkbox"/> State Trust Lands						

<input type="checkbox"/> Public Notice / Comment / Hearing Complete. (If the permit change is a significant Revision)	<input type="checkbox"/> Permit Change Approval Form signed and approved effective as of this date. <input type="checkbox"/> Permit Change Denied.
<input type="checkbox"/> Copies of permit change marked and ready for MRP.	<input type="checkbox"/> Notice of <input type="checkbox"/> Approval <input type="checkbox"/> Denial to Permittee.
<input type="checkbox"/> Special Conditions/Stipulations written for approval.	<input type="checkbox"/> Copy of Approved Permit Change to File.
<input type="checkbox"/> TA and CHIA modified as required.	<input type="checkbox"/> Copy of Approved Permit Change to Permittee.
<input type="checkbox"/> Permit Change Approval Form ready for approval.	<input type="checkbox"/> Copies to Other Agencies and Price Field Office.



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

May 18, 1998

TO: File

THRU: Pam Grubaugh-Littig, Permit Supervisor *pgl*

FROM: Susan M. White, Senior Reclamation Biologist *SMW*

RE: Phase III Bond Release, Huntington #4 Mine, Mountain Coal Company, ACT/015/004-96A, Folder #2, Emery County, Utah

Summary

Mountain Coal Company has been approved for Phase III bond release pending removal of all signs and markers. A site inspection conducted May 14, 1998 verified that all signs and markers had been removed. The site is recommended for Phase III Bond Release.

TECHNICAL ANALYSIS:

The Huntington #4 Mine had been previously approved for Phase III bond release pending removal of all signs and markers. A site inspection was conducted May 14, 1998. The site inspection verified that all signs and markers had been removed from the disturbed area.

RECOMMENDATION:

Phase III Bond Release may be approved for the Huntington No. 4 Mine.



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Salt Lake City, Utah 84114-5801
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801-359-3940 (Fax)
801-538-7223 (TDD)

January 15, 1998

Paige Beville, Manager
Environmental, Health and Safety
ARCO Coal Company
555 Seventeenth Street, Room 2170
Denver, Colorado 80202

Re: Phase III Bond Release, Mountain Coal Company, Huntington #4 Mine, ACT/015/004-BR96A, Folder #3, Emery County, Utah

Pamela
Dear Ms. Beville:

The Division prepared the Decision Document recommending Phase III Bond Release for the Huntington #4 Mine and received OSM concurrence on that decision on January 12, 1998.(attached.)

Prior to final bond release, the Division requests that the perimeter markers be removed as well as all silt fences. Please notify the Division when the markers and silt fences have been removed. Upon an inspection to that effect, Mountain Coal Company will achieve final bond release at the Huntington #4 Mine.

The Division appreciates your continued cooperation. If you have any questions, please call me or Pamela Grubaugh-Littig.

Sincerely,

Lowell P. Braxton
Director

tat
Attachments
cc: Pamela Grubaugh-Littig, DOGM
Susan White, DOGM
O:\015004.HU4\BOND\WORKING\PHIILTR.WPD

Mountain Coal Company
Huntington Canyon No. 4 Mine
Phase II Bond Release Application

I. BACKGROUND

The Huntington Canyon No. 4 Mine is a reclaimed underground coal mine located in Mill Fork Canyon, a tributary of Huntington Canyon in Emery County, Utah. The No. 4 Mine is located on the same surface area used by the Leamaster Mine in the early 1940's. The Helco and Skeen Mines also operated in Mill Fork Canyon in the 1940's. All three mines were abandoned without clean-up or reclamation. The No. 4 Mine started production in early 1977 and was active off and on until October 1984.

The permit area is located on the eastern edge of the Wasatch Plateau and is characterized by steep, narrow canyons with sandstone cliffs. The mine site itself is in a Pinyon woodland interspersed with Salina wildrye and Sagebrush vegetation. The permit area covers 1,320 acres with the disturbance limited to 25 acres. The mine site is located on privately owned land within the boundaries of the Manti-LaSal National Forest. Coal was mined from both fee ownership and Federal Leases.

The mine site reclamation including portal seals, structure removal, coal waste removal, backfilling, grading and revegetation was completed in November 1985. Application for Phase I bond release was made in February 1986. The Division approved a 60 percent bond release in November 1986. An application for a Phase II bond release was received by the Division in August 1992 and was denied by the Division for issues relating to completeness. *The Phase II application was resubmitted*

II. REGULATORY REQUIREMENTS

↙ R645-301-880.320 provides the regulatory requirement for Phase II of the bond release process. The requirement for vegetation is that successful revegetation be established. Guidance has been provided as to the definition of successful revegetation and establishment for the Kentucky program in 56 FR 15279, April 16, 1991. OSM holds that except for prime farmland, attainment of the success standard of R645-301-356 is a prerequisite only for final bond release. The State regulatory authorities are free to establish standards to determine when revegetation is successfully established for purposes of Phase II bond release. OSM states that these standards must be consistent with the conventional meaning of the terms "successful" and "established" and that revegetation must be adequate to control erosion and be in accordance with the approved reclamation plan.

Several states have interpreted the phrase "successful revegetation has been established" to mean that the vegetative ground cover as stated in the approved reclamation plan be within the statistical standards defined in R645-301-356.120. The Division at this time will also adopt this standard. The Division must also look at the remaining vegetation bond release standards (shrub density, diversity and production as listed in R645-301-350), and the potential of the site to meet these standards for Phase III bond release, however attainment of these standards are not required until Phase III release. Since the Huntington No. 4 Mine and the Gordon Creek No. 3 and 6 Mines are the first in the Coal Regulatory Program to apply for Phase II bond release, the adequacy of this definition may be subject to review and change.

III. VEGETATION SAMPLING

Mountain Coal Company notified the Division of its intent to conduct vegetation sampling on July 29 through 31, 1993 for Phase II bond release. The Division subsequently notified OSM and invited them to conduct their own sampling. Division vegetation sampling was completed on August 6 and 10, 1993.

Mountain Coal Company sampled for vegetative cover, woody species density, and annual biomass production. Vegetative cover and woody species density met the Division's requirement for sample adequacy while production measurements were only taken to provide guidance to Mountain Coal Company for final bond release. Table 1 provides a summary of Mountain Coal Company's data using means.

Table 1. Summary of Mountain Coal Company's Vegetation Data for the Huntington No. 4 Mine.

	Cover(%)	Density (#/ac)	Production (lbs./ac)
Lower Reclaimed	37.4	2625	550
Upper Reclaimed	41.4	2604	496
Reference Area	34.7	404	110

Mountain Coal Company summarizes the statistical differences in the data in Table 33 of the vegetation report for bond release. The report finds that the reclaimed area is either

significantly greater than or equal to the vegetation reference area for vegetative cover, woody plant density, and annual vegetation production.

The Division sampled only for vegetative cover on the reclaimed mine site and the reference area. Vegetation composition and diversity data were obtained from the cover data. The Division also found that the reclaimed area was either significantly greater than or equal to the vegetation reference area. The Division found 28 different species on the reclaimed site (7 grass, 10 forb and 11 tree and shrub species) while only eight species were identified in the reference area (2 grass, 1 forb and 5 tree and shrub species).

IV. ANALYSIS AND RECOMMENDATIONS

Statgraphics, Version 6 (1992) was used for all of the statistical analysis. The Division found no significant difference between the vegetation on the lower pad area and the reference area. The vegetation on the road and upper pad area was significantly greater than the vegetative cover in the reference area. A summary of the data is given in Table 2. Two statistical analyses were performed on the data: a t-test and a rank sum test. The t-test was used primarily due to convention. A probability plot correlation coefficient test showed that only the reference area data had a normal distribution, which violates one of the assumptions of the t-test. However, the results of the two tests were similar.

Table 2. Statistical Summary for Division Vegetation Cover Data on the Reclaimed Areas and Reference Area.

LOWER PAD AREAS	mean=32.2 median=33.5	std=13.8 IQR ₁ =18.5	n=80
REFERENCE AREA	mean=33.8 median=30.0	std=19.9 IQR=27.5	n=60
STATISTICAL ANALYSES (two sample analysis assume t distribution)	t=-.5488	p=.29	SL ₂ =NS
(Unpaired Wilcoxon Rank-Sum Test, no assumed distribution)	Z=.24	p=.40	SL=NS

IQR₁= Interquartile range

SL₂= Significance level

Phase II Bond Release
 Huntington No. 4 Mine
 May 6, 1994
 Page 4

UPPER ROAD AND PAD	Mean=43.6 Median=40.0	Std=17.2 IQR=18.0	n=38
REFERENCE AREA	Mean=33.8 Median=30.0	Std=19.9 IQR=27.5	n=60
STATISTICAL ANALYSES (two sample analysis assume t distribution)	t=2.489	p=.005	SL=S
(Unpaired Wilcoxon Rank-Sum Test, no assumed distribution)	Z=2.745	p=.003	SL=S

Data from the Division and Mountain Coal Company indicate the same statistical conclusion. The lower pad was not significantly different from the reference area and the upper road and pad had significantly greater vegetative cover than did the reference area. A summary of the means for Mountain Coal's data and the Division's data is given in Table 3.

Table 3. Average Total Living Cover for the Reclaimed Areas and Reference Area as Recorded by Mountain Coal Company and the Division.

	MT. COAL	DOGM
LOWER PAD AREAS Living Cover (%)	37.4	32.2
UPPER ROAD AND PAD Living Cover (%)	41.7	43.6
REFERENCE AREA Living Cover (%)	34.7	33.8

According to the Division's definition of successful revegetation establishment, Huntington No. 4 Mine has met the minimum qualifications for the vegetation cover portion of Phase II bond release. R645-301-356.120 states that the reclaimed area only has to meet 90 percent of the success standard. All of the above statistical conclusions were based on 100 percent of the standard. This fact should provide greater confidence when making the decision to release Phase II bond on this site.

DECISION DOCUMENT
PHASE III BOND RELEASE
HUNTINGTON #4 MINE
ACT/015/004

SUMMARY OF THE REVIEW PROCESS

The Huntington #4 Mine is a reclaimed underground coal mine located in Mill Fork Canyon, a tributary of Huntington Canyon, approximately 35 road miles southwest of Price, Utah. The permit area is located on the Rilda Canyon, Utah, U.S. Geological Survey 15 minutes quadrangle map. The Huntington #4 Mine is located on the same surface area used by the Leamaster Mine in the early 1940's. The Helco and Skeen Mines also operated in Mill Fork Canyon in the 1940's. All three mines were abandoned without clean-up or reclamation. The Huntington #4 Mine started production in early 1977 and was active off and on until October 1984.

The permit area is located on the eastern edge of the Wasatch Plateau and is characterized by a steep, narrow canyon with sandstone cliffs. The mine site itself is in a Pinion woodland interspersed with salina wildrye and sagebrush vegetation. The permit area cover 1,320 acres with the disturbance limited to about 25 acres. The mine site is located on privately owned land within the boundaries of the Manti La Sal National Forest. Coal was mined from both fee ownership and federal leases.

Mine site reclamation included portal seals, structural removal, coal waste removal, backfilling, grading and revegetation. The Huntington #4 Mine completed Phase I reclamation during the period of August 15, 1985 through September 30, 1985. The original bond posted for this property was \$360,104. Application for a Phase I bond release was made in February 1986. The Division approved a 60% bond release (\$216,062) on November 10, 1986.

The Mountain Coal Company submitted a Phase II bond release application to the Division for the Huntington #4 Mine on December 13, 1994 including a SEDCAD analysis and vegetative information. Mountain Coal Company requested release of an additional 30% of the original bond, or \$108,301.20 for the Phase II bond release.

The Phase II bond release inspection was conducted on May 18, 1994 with personnel from the Division, OSM-Albuquerque Field Office, OSM- Western Support Center, Manti La Sal Forest Service, and Mountain Coal Company in attendance.

On July 18, 1994 TDN X94-020-179-003 was received at the Division for "failure to eliminate all highwalls at the Huntington #4 Mine", as a result of the May 18, 1994 Phase II Bond Release inspection. The Division submitted a response to OSM-AFO for this TDN on July 28, 1994. On September 21, 1994 OSM found the July 28, 1994 TDN response appropriate.

On February 15, 1995 a letter of concern from Aaron Howe (Acting Forest Supervisor, Manti La Sal) to Thomas Ehmett (Field Office Director, OSM-AFO) stated that there was concern about whether or not the reclamation of the pond was included in the calculation of the remaining bond, but agreed that the pond was no longer needed.

A letter from Thomas Ehmett (OSM-AFO) on March 9, 1995 to Lowell P. Braxton, concurred with the Division decision to reduce the bond from \$144,041 to \$46,734. On March 20, 1995, the Division conditionally approved the Phase II bond release for the Huntington #4 Mine upon satisfactory removal of the sedimentation pond.

A memo to file from Susan White to Pamela Grubaugh-Littig, dated November 6, 1995, stated that the sediment pond removal was completed in September 1995. A stream alteration permit was issued October 18, 1995 and all work associated with the permit was approved in a letter dated October 18, 1995 from the Division of Water Rights. The Forest Service found the pond removal acceptable in a letter to the Division dated September 18, 1995. Susan White, Division inspector at this mine, inspected the work and found that all work associated with the pond removal had been completed in an acceptable manner.

The Phase II bond release was approved on November 5, 1995.

The Phase III Bond release application was received on February 20, 1996. The Phase III bond release inspection was conducted on June 27, 1996 with personnel from the Division, OSM-WRCC, Mountain Coal Company in attendance.

FINDINGS FOR PHASE II BOND RELEASE
HUNTINGTON #4 MINE
ACT/015/004

Public Notice for Phase III Bond Release

In accordance with R645-301-880.120 and 200, the Mountain Coal Company published the newspaper advertisement for the Phase III bond release in the Sun Advocate on April 2, 9, 16 and 23, 1996. The Division scheduled the Phase III bond release inspection for June 27, 1996 by sending letters on May 31, 1996. This

inspection was scheduled when weather permitted for inspection and evaluation of the reclamation work involved.

The Phase II bond release inspection was conducted on June 27, 1996 with the following attendees:

DOGM:	Susan White, Jess Kelley, Mike Suflita, Bob Davidson, Sharon Falvey, and Pamela Grubaugh-Littig
OSM-WRCC:	Mike Rosenthal
Mountain Coal Company:	Chirstine Johnston, Dan Guy and Dana Ballard (Blackhawk Engineering)

Finding of Established Vegetation and Vegetation Data for Phase III Bond Release
Put in Susan's findings

Finding and Supporting Documentation of No Pollution of Surface and Subsurface Waters
Put in Sharon's findings

Finding of No Subsidence Damage
Put in Jess's findings about subsidence

Decision for Phase III Bond Release

Based on the documented findings that: 1) All surface coal mining and reclamation operations have been successfully completed and 2) all reclamation requirements of the Act and the permit have been fully met, the Division proposes to release the bond for the Huntington #4 Mine in full.

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DECISION DOCUMENT
PHASE III BOND RELEASE
HUNTINGTON #4 MINE
ACT/015/004

*Phase II Released
approved
11/5/95.*

*Phase III
recl 2/80
in 6/87
def 10/16
Res. 3/16*

SUMMARY OF THE REVIEW PROCESS

The Huntington #4 Mine is a reclaimed underground coal mine located in Mill Fork Canyon, a tributary of Huntington Canyon, approximately 35 road miles southwest of Price, Utah. The permit area is located on the Rilda Canyon, Utah, U.S. Geological Survey 15 minutes quadrangle map. The Huntington #4 Mine is located on the same surface area used by the Leamaster Mine in the early 1940's. The Helco and Skeen Mines also operated in Mill Fork Canyon in the 1940's. All three mines were abandoned without clean-up or reclamation. The Huntington #4 Mine started production in early 1977 and was active off and on until October 1984.

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The Mountain Coal Company submitted a Phase II bond release application to the Division for the Huntington #4 Mine on December 13, 1994 including a SEDCAD analysis and vegetative information. Mountain Coal Company requested release of an additional 30% of the original bond, or \$108,301.20 for the Phase II bond release.

The Phase II bond release inspection was conducted on May 18, 1994 with personnel from the Division, OSM-Albuquerque Field Office, OSM- Western Support Center, Manti La Sal Forest Service, and Mountain Coal Company in attendance.

from Aug 1994 to

FINDINGS FOR PHASE II BOND RELEASE
HUNTINGTON #4 MINE
ACT/015/004

Public Notice for Phase II Bond Release

In accordance with R645-301-880.120 and 200, the Mountain Coal Company published the newspaper advertisement for the Phase II bond release in the Sun Advocate on September 21, 28 and October 5 and 12, 1993. The Division scheduled the Phase II bond release inspection for May 18, 1994 by sending letters on April 22, 1994. This inspection was scheduled when weather permitted for inspection and evaluation of the reclamation work involved.

The Phase II bond release inspection was conducted on May 18, 1994 with the following attendees:

DOGM:	Susan White, Tom Munson, Henry Sauer, Pamela Grubaugh-Littig
OSM-AFO:	Edzel Pugh and Russ Porter
OSM-WSC:	Daylan Figgs and Phil Reinholtz
Manti La Sal FS:	Carter Reed, Dennis, Kelly, and Bob Thompson
Mountain Coal Company:	Dan Guy and Dana Ballard (Blackhawk Engineering), Carol Bjork (Earthfax)

Vegetation Data for Phase II Bond Release

Mountain Coal Company notified the Division of its intent to conduct vegetation sampling on July 29 through July 31, 1993 for Phase II bond release. The Division subsequently notified OSM and invited them to conduct their own sampling. Division vegetation sampling was completed on August 6 and 10, 1993.

Mountain Coal Company sampled for vegetative cover and woody species density. Vegetative cover and woody species density met the Division's requirement for sample adequacy while production measurements were only taken to provide guidance to Mountain Coal Company for final bond release. Mountain Coal Company summarizes the statistical differences in the data in Table 33 of the vegetation report

for bond release. The report finds that the reclaimed area is either significantly greater than or equal to the vegetation reference area for vegetative cover and woody plan density.

The Division sampled only for vegetative cover on the reclaimed mine site and the reference area. Vegetation composition and diversity data were obtained from the cover data. The Division also found that the reclaimed area was either significantly greater than or equal to the vegetation reference area.

Statgraphics, Version 6 (1992) was used for all of the statistical analysis. The Division found no significant difference between the vegetation on the lower pad area and the reference area. Data from the Division and Mountain Coal Company indicate the same statistical conclusion. According to the Division's definition of successful revegetation establishment, Huntington #4 Mine has met the minimum qualification for the vegetation cover portion of Phase II bond release. R645-301-356.120 states that the reclaimed area only has to meet 90 percent of the success standard. All of the statistical conclusions used in this analysis were based on 100 percent of the standard. This fact provides greater confidence for Phase II bond release at this site. All of this information was forwarded to OSM-AFO on May 5, 1994, prior to the bond release inspection.

A final report by Division Biologist, Susan White, was done July 7, 1994 subsequent to the Phase II bond release field inspection and recommended Phase II bond release pursuant to R645-301-880.320.

Contribution of Additional Suspended Solids

An analysis related to past and present erosion rates from reclaimed mine sites were submitted by Mountain Coal Company using a Sediment Production Comparison generated by the Civil Software Design SEDCAD + Program, Version 3 (1992). The runoff volume, peak flow and sediment concentration were compared between past and present activities. Initial results of this computer analysis indicated that the sediment loads from the reclamation activities are no different than the pre-mining conditions. This information was forwarded to OSM-AFO on May 5, 1994.

The Universal Soil Loss Equation used in SEDCAD does not allow for gully erosion and an on-site assessment was made to ascertain any significant rill or gully erosion. This field assessment was made May 18, 1994. Based on visual observation by the Division Hydrologist, Tom Munson, he concluded and the Division find that the site was stable. A Phase II bond release was recommended based on the outcome of the site visit observation and the Sediment Production Comparison for

pre- and postmining pursuant to R645-301-880.320, as well as reviewing past inspection report to document overall stability. The site has sustained several severe storm events successfully.

This Phase II bond release encompasses the entire surface disturbance for the Huntington #4 Mine.

Remaining Reclamation

Remaining reclamation at the Huntington #4 Mine includes the removal of the pond. This was proposed to be removed in 1995 and reclamation was completed in 1995. Mountain Coal Company started collecting the requisite vegetative information for two years for final bond release in 1994.

Other Actions Surrounding Bond Release Inspection

Lowell Braxton sent a letter to Thomas Ehmett, dated July 6, 1994 stating that, "no TDN's were issued as a function of the Phase II bond release inspection and the Division has received no correspondence from OSM suggesting a lack of concurrence with the Phase II bond release, and therefore, requests a written confirmation *From AFO bond* supportive of the Phase II bond release application." [On July 18, 1994 TDN X94-020-179-003 was received at the Division for "failure to eliminate all highwalls at the Huntington #4 Mine", as a result of the May 18, 1994 Phase II Bond Release inspection. The Division submitted a response to OSM-AFO for this TDN on July 28, 1994. On September 21, 1994 OSM found the July 28, 1994 TDN response appropriate.

On August 22, 1994 Lowell Braxton sent a letter to Thomas Ehmett requesting comments on any other outstanding issues at the Huntington #4 Mine. No comments on any technical issues related to the Phase II bond release have been received to date.

On November 2, 1994 the findings and chronology for the Phase II bond release were forwarded to OSM-AFO. By letter dated November 23, 1994, OSM-AFO requested a Decision Document for the Phase II bond release for Huntington #4 Mine.

keep On February 15, 1995 a letter of concern from Aaron Howe (Acting Forest Supervisor, Manti La Sal) to Thomas Ehmett (Field Office Director, OSM-AFO) stated that there was concern about whether or not the reclamation of the pond was included in the calculation of the remaining bond, but agreed that the pond was no

longer needed.

A letter from Thomas Ehmett (OSM-AFO) on March 9, 1995 to Lowell P. Braxton, concurred with the Division decision to reduce the bond from \$144,041 to \$46,734.

On March 20, 1995, the Division conditionally approved the Phase II bond release for the Huntington #4 Mine upon satisfactory removal of the sedimentation pond.

A memo to file from Susan White to Pamela Grubaugh-Littig, dated November 6, 1995, stated that the sediment pond removal was completed in September 1995. A stream alteration permit was issued October 18, 1995 and all work associated with the permit was approved in a letter dated October 18, 1995 from the Division of Water Rights. The Forest Service found the pond removal acceptable in a letter to the Division dated September 18, 1995. Susan White, Division inspector at this mine, inspected the work and found that all work associated with the pond removal had been completed in an acceptable manner.

The phase II bond release was approved on 11/5/95.
Decision for Phase II Bond Release

Based on the documented findings that: 1) Vegetation has been established pursuant to R645-301-880.320, and 2) No reclaimed lands at the Huntington #4 Mine are contributing additional suspended solids to streamflow or runoff outside the permit area in excess of the requirement set by UCA 40-10-17 (j) of the Act and by R645-301-751, the Division proposes to release \$97,307. Additionally, the pond has been removed in an acceptable manner.

The remaining \$46,734 represents the amount of bond retained for the revegetated area which would be sufficient to cover the cost of reestablishing revegetation if completed by a third party.

Phase III was submitted on 2/20/97



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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December 26, 1997

James Fulton, Chief
Denver Field Division
Office of Surface Mining
Reclamation and Reclamation
Western Regional Coordinating Center
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

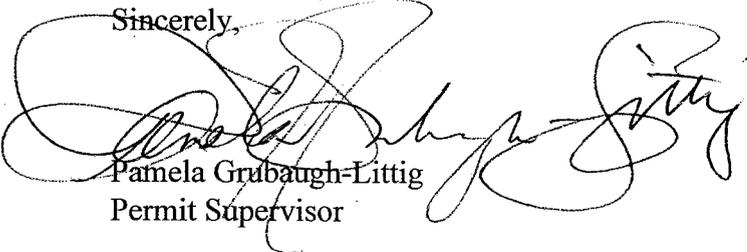
Re: Phase III Bond Release Application, Mountain Coal Company, Huntington #4 Mine, ACT/015/004-96A, Folder #2, Emery County, Utah

Dear Mr. Fulton:

Attached is a copy of the revised Decision Document for the Phase III bond release for the Huntington #4 Mine. These revisions were made as a result of comments that OSM forwarded to the Division on November 25, 1997.

Please let me know if you have any further comments and/or concurrence. Thank you.

Sincerely,


Pamela Grubaugh-Littig
Permit Supervisor

Enclosure



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
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Salt Lake City, Utah 84114-5801
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December 9, 1997

TO: Pamela Grubaugh-Littig, Permit Coordinator *PL*
THRU: Joe Helfrich, Permit Supervisor *JH*
FROM: Jess Kelley, Reclamation Specialist *JK*
RE: Phase III Bond Release, Mountain Coal Company, Huntington #4 Mine,
ACT/015/004-BR96A, Folder #2, Emery County, Utah

SUMMARY:

The permittee applied for Phase III bond release at this site early in 1996. Division personnel subsequently visited the site, dealt with a number of deficiencies in the permittee's application, and composed a decision document outlining their reasons for approving Phase III bond release.

On November 26, 1997, the Division received from OSM a letter which set forth several concerns that it had regarding Phase III bond release. The third of these concerns is that, though the site is classified as continuously-mined, i.e., in operation since before August 3, 1977 when SMCRA went into effect, some areas may have been newly disturbed after that date and may, therefore, be subject to the revegetation requirements of R645-301-356.100 rather than the less stringent requirements of R645-301-356.250. This memorandum deals with this concern.

TECHNICAL ANALYSIS:

Only 2 areas were disturbed after the initial development of this site in 1976: the pumphouse area and the sediment pond area.

The pumphouse area comprises approximately 1.15 acres. The permittee acquired the right to disturb this area through a special use permit issued by the U. S. Forest Service on March 16, 1977. All disturbance of and construction in this area were done in June of 1977--more than a month before SMCRA went into effect. The area thus clearly falls under the revegetation requirements of R645-301-356.250 for previously-mined and continuously-mined areas.

Page 2

ACT/015/004-BR96A

December 10, 1997

The sediment pond area comprises approximately 0.225 acres. The permittee acquired the right to disturb this area through a special use permit issued by the U. S. Forest Service on November 21, 1979. While this area is thus clearly a "post-law" area, its use for sediment ponds dictates not that it go through a 10-year bond liability period, but only that it meet the revegetation standards of the surrounding area.

RECOMMENDATION:

It is recommended, in accordance with consultation between this writer and Division Biologist, Susan White, that the vegetation of the pumphouse area and the sediment pond area be evaluated in comparison with that of the surrounding, continuously-mined area, and not according to the somewhat more stringent requirements of R645-301-356.100.



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

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Salt Lake City, Utah 84114-5801
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801-538-7223 (TDD)

November 25, 1997

James Fulton, Chief
Denver Field Division
Office of Surface Mining
Reclamation and Enforcement
Western Regional Coordinating Center
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

Re: Phase III Bond Release Application, Mountain Coal Company, Huntington #4 Mine,
ACT/015/004-96A, Folder #2, Emery County, Utah

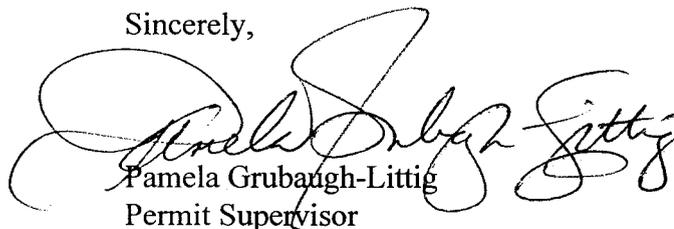
Dear Mr. Fulton:

Per the request of Dennis Winterringer today, I am enclosing the Phase III Bond Release application for the Huntington #4 Mine as well as the subsequent submittals.

The Division looks forward to your concurrence on this Phase III bond release application and appreciates your review at this time on the Division's Decision Document.

If you have any questions, please call me.

Sincerely,



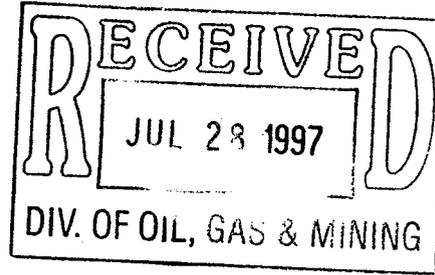
Pamela Grubaugh-Littig
Permit Supervisor

tat
Enclosure
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Mountain Coal Company
West Elk Mine
Post Office Box 591
Somerset, Colorado 81434
Telephone 303 929-5015



07/21/97



Mr. Jeffrey DeFreest
U.S. Forest Service
Manti-LaSal National Forest
Supervisors Office
599 West Price River Drive
Price, Utah 84501

Re: **Fence at Reclaimed Pond Area**
Huntington Canyon No. 4 Mine
INA/015/004 # 2
Emery County, Utah

Dear Mr. DeFreest:

Copy Pam: Susan

Per our discussion, Mountain Coal Co. is willing to give the fence around the reclaimed sediment pond area to the U.S. Forest Service. This will allow the fence to remain in place, and be removed at your discretion.

It is our understanding that this is the last remaining obstacle to the USFS comments concerning our application for Final Bond Release.

If you have any questions, please call Dan Guy at 637-2422.

Respectfully,

Dan W. Guy,
for
Paige B. Beville

cc: **Paige Beville - ARCO**
Pam Grubaugh-Littig - UDOGM
File



IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

**COPY FOR YOUR
INFORMATION**

July 8, 1997

United States Department of the Interior
Bureau of Land Management
Attn: Mr. Jim Edwards, Resource Supervisor
2850 Youngfield Street
Lakewood, CO 80215

*Copy Mary Anne,
Daron, Joe, Dan
file OSM meeting*

RE: PERFORMANCE BOND RELEASE ON FEDERAL LANDS COAL MINES

Dear Mr. Edwards:

Thank you for taking the time on May 21 to meet with Henry Austin of my staff and provide Bureau of Land Management (BLM) input concerning coordination between the Office of Surface Mining (OSM); Colorado Department of Natural Resources, Division of Minerals and Geology (DMG); and BLM to clarify the procedures necessary for performance bond release on federal lands coal mining operations in Colorado.

Both OSM and DMG recognize BLM's concurrence role in the release of these performance bonds and we felt it would benefit all agencies to establish an agreed upon document which defines the required actions and responsibilities of our respective agencies. The intent of the document is to enhance and expedite the coordination necessary between our agencies during the bond release process.

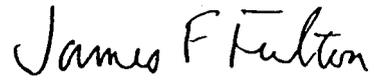
OSM feels the enclosed document establishes appropriate milestones and guidance in the bond release process from receipt of the application, through the required bond release inspection, and agency concurrence with DMG's proposed decision to release bond.

OSM acknowledges your concern regarding BLM participation in the bond release process for federal mines to the extent that individual release applications may not involve either BLM surface or federal coal ownership, yet require BLM concurrence to conclude the release. OSM remains ready to review and modify this process if necessary based on BLM recommendations.

OSM wishes to acknowledge the contributions of the DMG staff who reviewed, provided comments, and enabled completion of the enclosed procedures document. OSM understands you will distribute the procedures document as necessary to the BLM Resource Area Offices in Colorado.

Thank you and your staff again for your involvement. Please address any questions regarding implementation of these procedures to Henry Austin at (303) 844-1466 or E-mail to haustin@osmre.gov.

Sincerely,

A handwritten signature in black ink that reads "James F. Fulton". The signature is written in a cursive style with a large, prominent "J" and "F".

James F. Fulton, Chief
Denver Field Division

Enclosure

PROCEDURES FOR COOPERATING STATE AND FEDERAL
REGULATORY AGENCIES TO PROVIDE MUTUAL CONCURRENCE
ON THE RELEASE OF PERFORMANCE BONDS FROM
FEDERAL LANDS COAL MINING OPERATIONS

JUNE 30, 1997

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
WESTERN REGIONAL COORDINATING CENTER
DENVER FIELD DIVISION

This bond release procedures document applies to federal lands coal mining operations (both surface and underground coal mines) which are regulated under a cooperative agreement through the Surface Mining Control and Reclamation Act (SMCRA) and individually approved State Regulatory Programs. The Office of Surface Mining Reclamation and Enforcement (OSM) through the Code of Federal Regulations at 30 CFR is responsible for providing bond release concurrence to State Regulatory Authorities (SRA) where the SRA is responsible for implementing a coal mining regulatory program approved by the Secretary of the Interior. These performance bonds for federal lands mines are jointly payable to The United States of America and the respective SRA.

SRA's operating under primacy (designated by the Secretary of the Interior as the primary agency responsible for implementation of a coal mining regulatory program in that state) assume the lead roll whenever their regulatory program actions require coordination and/or formal written concurrence from other state or federal agencies. This document is intended to clarify the process for initiation, follow-up, and completion of various stages in the bond release process.

The Colorado Department of Natural Resources, Division of Minerals and Geology (DMG) located in Denver, CO, has primacy for regulation of coal mining operations in Colorado. OSM's Western Regional Coordinating Center (WRCC) also located in Denver, CO, has federal oversight responsibility for the DMG regulatory program. The United States Department of the Interior, Bureau of Land Management (BLM), authorizes federal coal leases on all federal lands. BLM along with other state and federal land management agencies are also responsible for authorizing leases or permits for disturbance of surface lands under their jurisdiction which will be affected by coal mining operations. Federal coal lease bonds and state or federal bonds for leasing or permitting surface lands are in addition to the performance bond required by the SRA and not the subject of this bond release procedures document.

The Denver Field Division (DFD) of OSM's Western Regional Coordinating Center in cooperation with DMG and BLM in the State of Colorado is proposing the following bond release procedures in an effort to both clarify and expedite the mutual concurrence process required for partial or full release of performance bonds on federal lands coal mining operations.

PROCEDURES FOR PROCESSING BOND RELEASE

APPLICATIONS ON FEDERAL COAL MINES

IN COLORADO

1. Partial or full performance bond release application for a federal coal mine is submitted by the permittee simultaneously to DMG, BLM, and OSM/DFD.
 - Three copies of the application submitted to DMG *DDGM*
 - One copy of the application submitted to OSM
 - One copy of the application submitted to BLM / Resource Area Office
2. DMG and/or DFD acknowledges receipt of the application through the DMG/OSM Oversight Team (Team) via telecommunication (telephone or E-mail).
3. DFD confirms application receipt with the BLM / Resource Area Office (BLM) via telecommunication and specifies both the nature of the bond release and pending notification of the bond release inspection date.
4. DMG notifies DFD via telecommunication of the scheduled bond release inspection date. DFD notifies BLM via telecommunication of the scheduled inspection date upon notification from DMG. BLM notifies DFD via telecommunication prior to the scheduled inspection date and indicates whether BLM will participate in the inspection.
5. DFD notifies DMG via telecommunication prior to the inspection date and indicates if DFD and/or BLM will participate in the inspection. The Team agrees on logistics for the inspection and DFD notifies BLM via telecommunication of logistical agreement (time, meeting place, transportation, equipment needs, etc.).
6. The bond release inspection is conducted. DMG assumes the lead during the inspection and inspection participants follow DMG's direction. DMG determines when the inspection is completed after consulting with inspection participants. DMG provides an on site inspection close out meeting with all inspection participants and requests preliminary questions/comments concerning the inspection. As the lead agency DMG assumes control over the length/depth of the close out meeting. If OSM is unable to attend a scheduled DMG bond release inspection and schedules a separate inspection, OSM will provide both DMG and BLM with advance notification of the inspection and an opportunity to attend.

7. OSM provides one copy of the Mine-Site Evaluation Inspection Report for the bond release inspection to DMG, BLM, and the permittee. DFD and BLM acknowledge that technical review issues and /or any other problems identified with the bond release application or inspection will be provided to DMG as soon as they are identified with the intention being to provide DMG this information prior to DMG's proposed decision.
8. DMG simultaneously provides one copy of the Proposed Decision and Findings of Compliance for the bond release application and inspection to DFD, BLM, and the permittee. DFD acknowledges receipt of the proposed decision via telecommunication to DMG and BLM. If no issues were identified by DFD and/or BLM, or issues noted have been resolved, DFD and BLM will provide concurrence on the proposed decision. BLM will provide a concurrence letter to DFD and notify DFD via telecommunication of when to expect the letter. DFD will provide a concurrence letter to DMG and include a copy of the BLM concurrence. DFD will copy its concurrence to BLM and the permittee. Both BLM and DFD will provide their concurrence within the 30 day period beginning with DMG's first newspaper publication of the proposed decision.
9. If technical review issues and/or other problems identified remain unresolved at the time DMG distributes its Proposed Decision, DFD and/or BLM will submit to DMG a current written assessment of those issues including timelines for both additional review and resolution of the issues. Either DMG or DFD, through the current Team, may implement the issue resolution methods found at Part V. of the February 6, 1996, Oversight Agreement in order to expedite resolution of issues. If necessary, the Team will request BLM participate in the issue resolution meetings.

IF ALL PARTIES CONCUR WITH THE PARTIAL OR FINAL BOND RELEASE, THEN THE FOLLOWING STEPS ARE TAKEN TO RETURN THE PHYSICAL BONDING DOCUMENTS TO THE PERMITTEE:

I. Partial Release

1. If a partial (phase) release where a reduction to the bond sum is approved, then DMG notifies the permittee that the bond amount may be reduced and copies DFD on the letter.

a. The permittee submits a bond rider, letter of credit amendment, or a replacement bond to effect the change in the required dollar sum of the bond. DMG notifies DFD when the rider/amendment has been approved by DMG for the new amount.

b. If the permittee wants to replace an existing bond with a new bond for the new, lower amount, and the replaced bond requires an indorsement (CD), DMG's bonding specialist will mail (certified mail) or hand-deliver the CD to the WRCC bonding specialist who will obtain the indorsement of the Bond Approving Officer and prepare any letter to the DMG/Bank or Permittee that may be necessary.

c. The CD will be endorsed as Pay To The Order of "Permittee," and signed by the DMG Director and the WRCC Bond-Approving Officer. After it has been indorsed by WRCC, the WRCC bonding specialist will mail (certified mail) or hand-deliver the indorsed CD to the DMG bonding specialist for return to the permittee under a cover letter prepared by DMG and copied to DFD.

d. If the bond being replaced is a surety bond or letter of credit, no action on WRCC's part will be necessary. The action can be treated like any other bond replacement action. DMG will notify DFD of the change to the dollar sum when the replacement bond has been approved by DMG. (Some surety companies/banks may ask for written concurrence from OSM along with DMG even when a bond/loc is just being replaced. If this occurs, the DMG bonding specialist will notify the WRCC bonding specialist, providing the pertinent information, and the WRCC bonding specialist will prepare a letter for the signature of the WRCC Bond-Approving Officer and mail it to DMG).

e. If the bond being replaced is a book-entry U.S. Treasury Note, Bond, or Bill, then the WRCC bonding specialist will prepare a letter from the WRCC Bond-Approving Officer to the appropriate Federal Reserve Bank where the security is held authorizing OSM's release of the security as a Federal pledgee. DMG's bonding specialist will have provided the WRCC bonding specialist with the pertinent information about the Treasury security: CUSIP number(s), dollar amount, name and location of the Federal Reserve Bank and contact person where the security is held, Permittee's name, address, and permit number.

Note: The Federal Reserve Bank will not release a Treasury security on which OSM is a Federal pledgee without the authorizing signature of WRCC/OSM's Bond-Approving Officer along with the authorizing signature of the DMG Director (31 CFR Section 225.15).

II. Final Release

2. If all parties concur with the **final bond release**, then DFD and DMG notify their respective bonding specialists. DMG's bonding specialist will provide WRCC's bonding specialist with a copy or pertinent information about the instrument(s) being released:

- Bond type and number
- Bank or Surety Co.'s name and address
- Dollar amount
- Execution/issue date
- Permit number
- Permittee's name and address
- Name and address of Federal Reserve Bank if a US Treasury security

3. The DMG bonding specialist will retrieve the original bonding instrument from safekeeping and retain canceled copies for the permit file.

4. The DMG bonding specialist, (or other assigned party) will draft a release letter for the signature of the Director, and obtain the Director's indorsement or signature on documents such as a CD, Release of Deed of Trust, etc.

5. Concurrently, the WRCC bonding specialist will prepare a letter of concurrence for the WRCC Bond-Approving Officer notifying DMG and the appropriate surety company, bank, Federal Reserve Bank, etc. of OSM's concurrence with the release of liability under the bond(s).

6. In the case of a CD or Release of Deed of Trust or other document that needs an indorsement or signature, DMG will mail (certified mail) or hand-deliver the instrument(s) to the WRCC bonding specialist who will obtain the indorsement/signature of the Bond-Approving Officer and mail or return the instrument(s) to DMG's bonding specialist along with the concurrence letter.

7. For final release of a CD or Treasury security, also see steps 14 (c) and (e) above where the steps needed for partial release involving a bond replacement, and the steps needed for a final release are the same.

Note: If there are multiple bonds on a permit being released and the bonds are different kinds of instruments, DMG's letter releasing the instruments, and OSM's letter concurring with the release will need to include the applicable language and follow the procedures appropriate for each bond and bond type being released. If needed, the DMG and WRCC bonding specialists can work together to determine what is needed to accomplish the return and release of all bonds covering a reclaimed permit area.



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Executive Director
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Salt Lake City, Utah 84114-5801
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801-359-3940 (Fax)
801-538-7223 (TDD)

June 23, 1997

Ranvir Singh
Federal Lands Program
Office of Surface Mining
Reclamation and Enforcement
Western Regional Coordinating Center
1999 Broadway, Suite 3320
Denver, CO 80202-5733

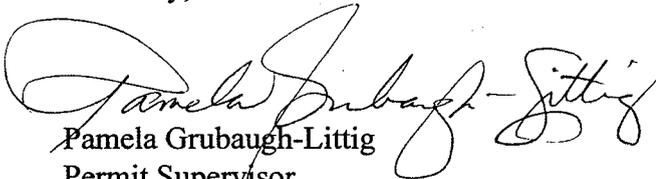
Re: Phase III Bond Release Application, Mountain Coal Company, Huntington #4 Mine,
ACT/015/004, Folder #2, Emery County, Utah

Dear Mr. Singh:

I am enclosing the Phase III Bond Release application for the Huntington #4 Mine as well as the subsequent submittal. The Phase III Bond Release inspection has been done and the Decision Document is currently being prepared by the Division.

If you have any questions, please call me.

Sincerely,


Pamela Grubaugh-Littig
Permit Supervisor

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Enclosure
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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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801-538-7223 (TDD)

June 5, 1997

Paige B. Beville, Manager
Environmental, Health and Safety
ARCO Coal Company
555 17th Street, Room 2170
Denver, CO 80202

Re: Phase III Bond Release Status, Mountain Coal Company, Huntington #4 Mine,
ACT/015/004, Folder #3, Emery County, Utah

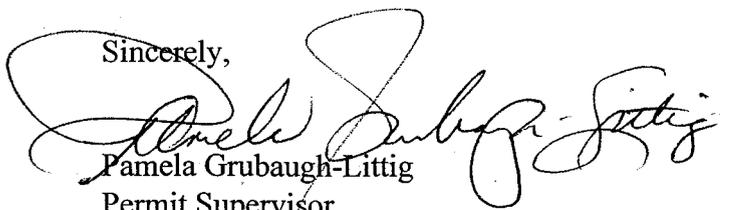
Dear Ms. Beville:

The Division has reviewed the Phase III bond release application (submitted April 2, 1996) and subsequent submittal (March 20, 1997) for Huntington #4 Mine. A bond release inspection was conducted June 27, 1996.

The sediment pond which was under a Forest Service Special Use Permit was removed in the summer of 1995 and the area seeded. At the time of the June 27, 1996 site inspection this seeded area had not been established and did not look like the surrounding area. Although the reseeded area of sediment pond removal does not have to meet the ten-year liability period, it does need to meet other standards of being diverse, effective and permanent.

Therefore, the bond may not be released until vegetation establishment at the sediment pond is reassessed. An assessment should be scheduled with the Division and Forest Service to reevaluate vegetation establishment at the sediment pond. Please contact me in this regard at your convenience.

Sincerely,


Pamela Grubaugh-Littig
Permit Supervisor

tt
cc: Jeff DeFreest, FS, Price
Susan White
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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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801-538-7223 (TDD)

May 16, 1997

TO: File 

THRU: Daron Haddock, Permit Supervisor

FROM: Jess Kelley, Reclamation Engineer 

RE: Phase III Bond Release, Mountain Coal Company, Huntington #4 Mine, INA/015/004-96A, Folder #2, Emery County, Utah

SUMMARY:

The permittee of this site formally applied for final bond release on February 20, 1997. This memorandum constitutes this writer's review of the bond release application and of the compliance of this site with the regulatory requirements for final bond release.

TECHNICAL ANALYSIS:

This writer reviewed the bond release application to determine whether or not the site has met 3 criteria: 1) the site has been restored to its approximate original contour (AOC); 2) subsidence has ceased and post-operational monitoring adequately confirms that it has ceased; and 3) any surface damage due to subsidence has been adequately mitigated. It is this writer's determination that these 3 criteria have been met.

- The site has been restored to AOC. This was initially confirmed when the site was regraded. It has since been reconfirmed on June 27, 1996 during a joint inspection conducted by representatives of the Division, including this writer, and Mike Rosenthal of the Office of Surface Mining. The highwalls and portal cuts in the upper portal area have been eliminated, the lower facilities area has been backfilled, and both areas have been regraded. More recently, the sediment pond has also been backfilled and regraded.

- Through a cooperative agreement with the permittee, the U.S. Forest Service monitored subsidence at this site by aerial photogrammetric methods from 1979 until 1987. In 1987, this subsidence monitoring program was discontinued because subsidence, which was slight to begin with (less than 1 foot total) was no longer occurring.

●From 1987, when subsidence monitoring was discontinued, until the present, the permittee has conducted a yearly on-the-ground search for subsidence damage. These searches, which have been documented in every annual report, have turned up neither subsidence damage nor even visible surface manifestations of subsidence. In the fall of 1996, this writer also conducted an on-the-ground search for subsidence damage. Like the searches conducted by the permittee, this search turned up no subsidence damage and no surface manifestations of subsidence.

RECOMMENDATION:

It is recommended that the Division approve the permittee's application for final bond release.

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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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801-538-7223 (TDD)

May 8, 1997

TO: File *DRH*

THRU: Daron Haddock, Permit Supervisor and Pamela Grubaugh-Littig, Permit Coordinator *PL*

FROM: Sharon Falvey, Senior Reclamation Specialist *SXF*

RE: Phase III Bond Release, Huntington Canyon No. 4 Mine, INA/015/004-96A. Folder #2, Emery County, Utah

SYNOPSIS:

The Mountain Coal Company has submitted a request for Phase III bond release and have submitted an application with documentation to demonstrate that the regulatory requirements for bond release have been met. This application was received on 3/20/97. Hydrologic requirements for bond release are reviewed and summarized herein. Using the available data, no pollution of surface and subsurface water has been determined to be occurring and, future occurrence of pollution from this site is expected to have a low probability. Earlier findings regarding adequate erosion control were made at Phase II bond release and are not covered in this memo.

ANALYSIS:

All applicable data collected by the mine was tabulated. However, no summary statistics were conducted by the applicant. This information should be supplied by the applicant; however, because there is a small amount of data and because there have been no agency or public issues raised concerning water quality and quantity at this site, the Division has conducted some data analysis and constructed some data graphs to support the following findings for issues raised in the CHIA:

- Little Bear Spring flows do not appear to be impacted by mining that occurred at the Huntington #4 mine;
- no exceedence in water quality standards for the Mill Fork Drainage were observed for the data analyzed;
- no water is being discharged from the Huntington #4 mine. Regulatory requirements of 40 CFR 434.50 for alkaline underground mine drainage does not apply. A pre-SMACRA portal discharge in the adjacent area is not associated with the Huntington #4 mine.

Little Bear Springs Analysis

Data for Little Bear Springs flow was presented in the Bond Release application, a technical analysis for this permit indicated that mining from the Huntington #4 Mine ceased in order to prevent impacts to Little Bear Springs. Little Bear Spring flows do not appear to be impacted by mining that occurred at the Huntington #4 Mine. This station was formally identified and monitored as site 4-1-W under the Huntington #4 mining permit and is currently monitored by the Castle Valley Special Services District. Data presented provide information for Little Bear Spring Flows for the last three years of mining and through 1996 for the reclamation period.

No obvious changes to seasonal variation have occurred due to mining. The influence of monthly flow patterns are best illustrated in Figures 1, 3, and 4. Figure 1, presents the mean monthly flows for the period of record, during mining, and following reclamation. Figure 3 illustrates spring discharges for selected years during a dry climatic period and figure 4, shows discharge for selected years during wet climatic periods. Mean annual flows are illustrated in figure 2.

Figure 1

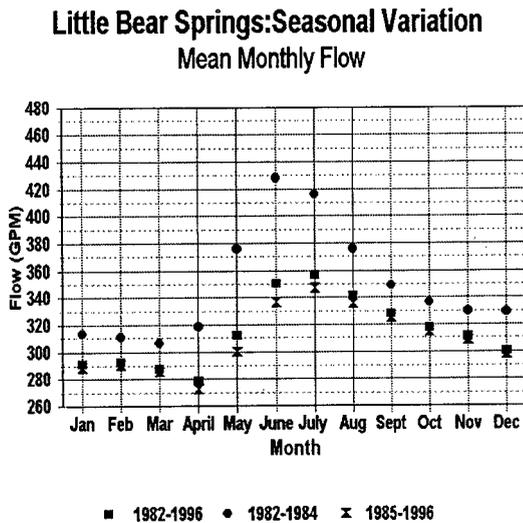


Figure 2

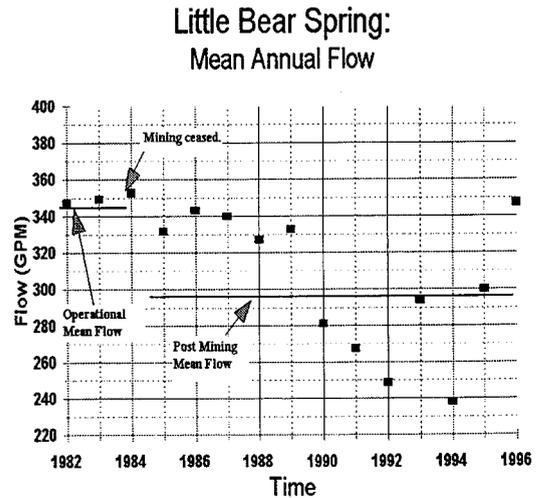


Figure 3

**Little Bear Springs: Monthly Flow
 Selected Annual Data Dry Year**

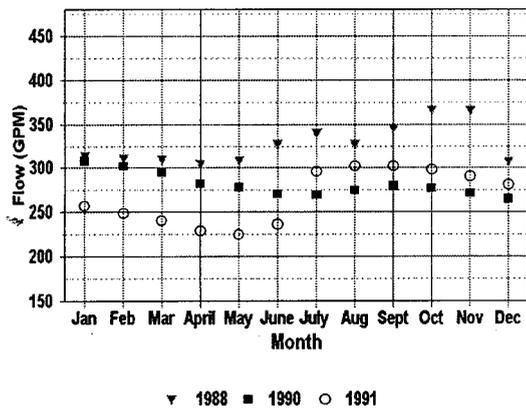
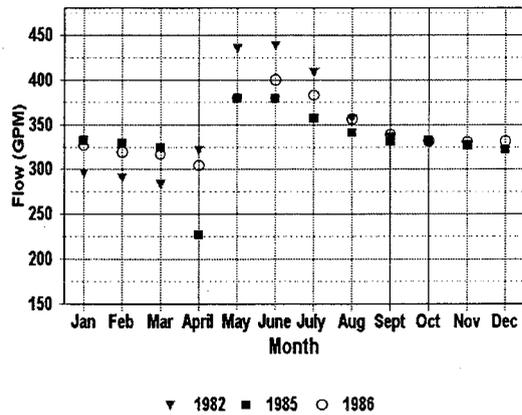


Figure 4

**Little Bear Springs: Monthly Flow
 Selected Annual Data Wet Years**



These figures were developed to assess whether changes in water quantity may have occurred due to mining. No obvious changes in flow rate can be tied to mining at the Huntington # 4 mine. The variation in flow rate appears to be tied to climatic factors. Average monthly trends for the 1982-1996 flows followed a similar discharge pattern during mining and following reclamation of the Huntington #4 Mine as can be observed on figure 2. Although the data for the operational period is limited to a short period of record within a wet cycle, the figure showing the postmining data suggests the response for wet and dry cycles has required pre-mining pre-drought characteristic flow.

Figure 5

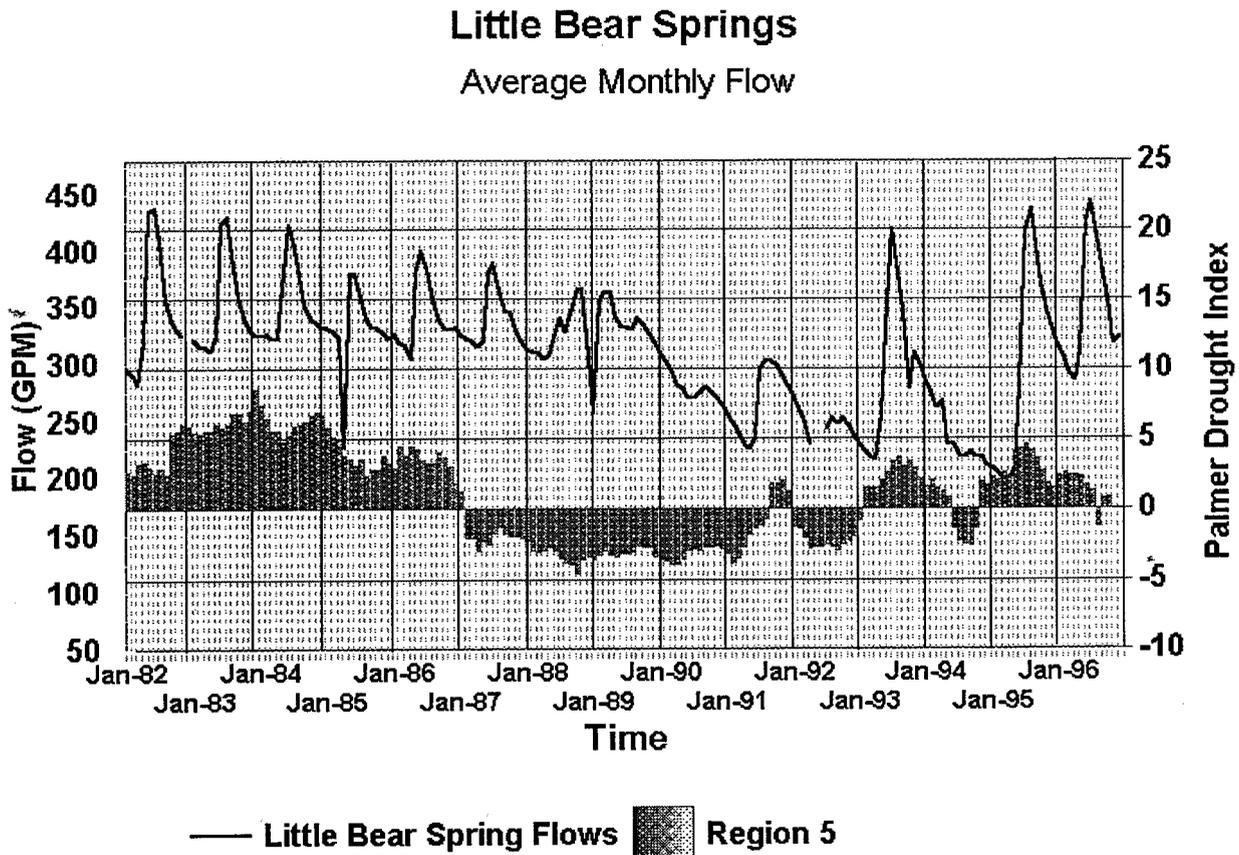


Figure 5 shows the operational and post-mining water quantity for Little Bear Spring and includes the Palmer Drought index for region 5. Because Little Bear Spring is shown to be in drought index region 4, region 4 was also used to compare Little Bear Spring flows. It appeared that Region 5 more closely fit the recharge characteristics of this spring. The reason for the better fit is believed to be caused from the extent that region 4 is influenced by the drought pattern of the south central region of the state and because the Little Bear spring is influenced by the mountain terrain of the Wasatch Plateau which is encompassed in Region 5.

It should be noted that the data obtained in the months of April 1985 and January 1989 are questionable as to their validity. These data appear as though they may be approximately 100 g.p.m. less

than the flow expected by observing the trend. Data collection, reporting or calculation errors may have influenced these data. In observing the trend of low flows there appears to be a slow decline in flow rate in conjunction with the drought. There is a gradual decline in the low flows over the drought period from 1987 through 1993. The low flows continue to decline at a slower rate from April 1991 through May 1995, when the flow rate quickly rises. When a comparison of the average annual flow and the average annual drought index is made the trends for spring flow and for recharge are more similar for the years 1994 through 1996. Local precipitation data may also follow a similar relationship to the high peak flows but, these data were not provided so, the relationship was not assessed.

In 1989 and 1990 the variation in flow rate for the year were the lowest for the period of record. The lack of variation appears to be tied to having water available for recharge. These decreased flows and reduced peak flows occurred during the 3rd and 4th years of a drought cycle. See figure 5. Peak flows were observed in April and January for 1989 and 1990, respectively. The 1996 flow rates appear to have regained flow levels and monthly flow characteristics of those observed during mining in 1982, as is suggested in figure 4.

Although the Tie Fork well was determined to be impacted by mining and has been considered in a separate geohydrologic response area from Little Bear Spring, a similar quick response trend was observed in the Tie Forks well over this period. This may indicate the quick recharge response is a regional characteristic and is related to climatic conditions and similar recharge properties.

No obvious changes to seasonal variation have occurred due to mining. Peak flows were observed in April and January for 1989 and 1990, respectively. The 1996 flow rates appear to have regained flow levels and monthly flow characteristics of those observed during mining in 1982. The variation in flow rate appears to be tied to climatic factors.

Mill Fork Drainage

Mill Fork Drainage is a tributary of Huntington Creek. According to the R317-2 Utah Administrative Code the Classification for Huntington Creek and its tributaries are 1C, 2B, 3A and 4, upstream of the highway U-10 crossing. In the plan, a list of current water rights could not be located. The worse case scenario for each parameter analyzed for the classification system is assumed to apply to the flows in Mill Fork Drainage.

Two sites were monitored, 4-3W and 4-8W upstream and downstream of the site on Lower Mill Fork. No comparisons of data prior to, during, or following mining could be completed because data collection started in 1985 after mining ceased. Data analyses completed included averages, variances from average and minimum and maximum values observed for each parameter in the data set. Where the monitored parameters had values that could be compared against a water quality standards they were presented in table 1, the remaining data summary can be found in Appendix A.

No exceedence in water quality standards for the Mill Fork Drainage were observed for the data analyzed. Although Nitrate as N and Fluoride are standards for the Mill Fork Drainage no data are available down stream of the site. However, there is no suspected reason that either of these parameters might change due reclamation practices and contribution of runoff from this site.

Table 1.

Parameter	Site	Mean	Deviation from Mean	Minimum	Maximum
pH units	4-3W	8.05	0.1	7.46	8.5
	4-8W	8.02	0.17	8.9	7.31
Standard	6.5 - 9.0		Class 1C, 2A, 2B, 3B and 4		
	6.0 - 9.0		40 CFR Subpart E- post-mining areas		
TDS (mg/l)	4-3-W	378.28	99.22	176	710
	4-8-W	341.89	112.05	204	616
Standard	1,200		Class 4		
Total Iron	4-3-W	0.72	0.63	0.06	3.03
	4-8-W	0.37	0.28	ND	1.15
Standard	1000(acid soluble)		Class 1C, 2A, 2B, 3B and 4		
Fluoride (mg/l)	4-3W	0.14	0.04	0.11	0.16
	4-8W	#	#	#	#
Standard	1.4-2.4		Class 1C		
Nitrates as N (mg/l)	4-3W	0.32	0.06	0.31	0.33
	4-8W	#	#	#	#
Standard	10; 4		Class 1C; Class 2B		

* ND = not detected at the detection limit.
 # No data available.

Page 7
Huntington No. 4
INA/015/004-96A
May 8, 1997

Discharge From Mine Portals

No water is being discharged from the Huntington #4 mine. Regulatory requirements of 40 CFR 434.50 for underground mine drainage does not apply. One other area within the permit and reclaimed area is issuing water. However, this site is associated with Title IV and was reclaimed under the abandoned mine reclamation program Spring Canyon Project, Mill Fork Site AMR/007/905. This discharge location has not been considered part of the Huntington #4 permitting actions.

Summary

The bond should be released as no pollution of surface and subsurface water has been determined to be occurring and, future occurrence of pollution from this site is expected to have a low probability as determined through the information and data analyzed.

Appendix A

Huntington No.4 Mine: Upper Mill Fork

Location Upper Mill Fork
 STORET # 173150 Site # 4-3-W

DATE	F-Temp Deg. C	F-pH pH units	F-Sp.Cond umhos/cm	Flow GPM	L-pH pH units	T.Sus.Sol mg/l	D-Calciu mg/l	D-Magne mg/l	D-Potass mg/l	D-Sodium mg/l	Bicarbonat mg/l	Carbonat mg/l	Chloride mg/l	Fluoride mg/l	Nitrate N mg/l
01/15/86	1	8	540	0.5	8.3	16	59	19	1	1	192	0	4	0.11	0.33
03/19/86	1	8.1	560	18.5	8.1	16	65	73	3	16	272	0	22	0.16	0.31
04/23/86	3	8	640	29.6	8.1	<1.					325	0	24		
05/13/86	2	8	600	562	8	66					290	0	10		
06/15/86	3	8.1	450	296	8.3	92					273	0	4		
07/24/86	10	8	510	249	8.1	8					287	0	8.2		
08/11/86	12	8.1	580	76.4	8	<1.					303	0	13		
09/24/86	9	8.1	875	58	7						208	0	14	0.15	
10/01/86	5	8	480	36.4	8.2	2					342	0	16		
11/22/86	2	8.1	460	62.7	8.2	342					398	0	10		
12/07/86	2	8	300	56	7.6	106					153	0	24		
01/05/87	1	8.2	455	38	8.2	68					379	0	10		
02/06/87	1	8	660	72.2	8.1	26					400	0	12		
03/12/87	1	8.1	290	42											
05/01/87	6	8.1		42		1						0	14		
05/17/87	6	8	790	51		171	56	67	3	18	328	0	24		
06/07/88	4	8	180	56		13					272	0	3		
06/01/93	4.5	8.5	300	550	8.2	64					286	0	3.2		
05/14/96	10	7.46	276	63.6		71	59.7	22.7	0.78	4.83	279	<1.	1.87		

	Deg. C	pH units	umhos/cm	GPM	pH units	T.Sus.Sol mg/l	D-Calciu mg/l	D-Magne mg/l	D-Potass mg/l	D-Sodium mg/l	Bicarbonat mg/l	Carbonat mg/l	Chloride mg/l	Fluoride mg/l	Nitrate N mg/l
Mean	4.39	8.05	497.00	124.21	8.03	62.47	59.93	45.43	1.95	9.96	293.35	0.00	12.07	0.14	0.32
Mean Deviatio	2.88	0.10	160.69	122.12	3.11	56.09	19.92	15.10	0.65	3.43	79.93	ND	6.32	0.04	0.06
Min	1	7.46	180	0.5	7	ND	56	19	0.78	1	153	ND	1.87	0.11	0.31
Max	12	8.5	875	562	8.3	342	65	73	3	18	400	0	24	0.16	0.33

Huntington No.4 Mine: Upper Mill Fork

DATE	Sulfate mg/l	T-Hardns mg/l	L-Sp. Cond umhos/cm	TDS @ 18 mg/l	T-Iron mg/l	T-Mn ug/l	Na Ads R	T-Calcium mg/l	T-Magnes mg/l	T-Potass mg/l	T-Sodium mg/l
01/15/86	12	225	370	224	0.23		20 <0.1				
03/19/86	159	462	770	488	0.24		10 0.33				
04/23/86	125	382	753	440	0.06 <20.		0.38	49	63	2.9	17
05/13/86	107	314	606	396	0.75		20 0.59	53	44	1.5	24
06/15/86	23	245	450	348	1.48		50 0.16	77	13	1	6
07/24/86	53	283	484	312	0.13 <20.		0.26	52	37	1.5	10
08/11/86	84	329	604	368	0.21 <20.		0.31	46	52	2	13
09/24/86	223	406	813	710			0.37	82	49	3	17
10/01/86	93	387	701	400	0.11 <20.		0.34	46	66	2	16
11/22/86	64	380	668	400	3.03	120	0.24	71	50	2	11
12/07/86	68	212	335	176	0.15 <20.		0.32	32	32	2	11
01/05/87	70	372	666	372	2.19	60	0.3	62	53	2	13
02/06/87	69	382	701	414	0.92	60	0.31	59	57	2	14
03/12/87											
05/01/87	77	376		405	0.07 <20.			50	61	2	13
05/17/87	152	414		480	1.03						
06/07/88	21	238		250				59	22	1	5
06/01/93	17	228	436	256	0.22 <20.			58	20	3.9	6.4
05/14/96	20	243		370							

	Sulfate mg/l	T-Hardns mg/l	L-Sp. Cond umhos/cm	TDS @ 18 mg/l	T-Iron mg/l	T-Mn ug/l	Na Ads R	T-Calcium mg/l	T-Magnes mg/l	T-Potass mg/l	T-Sodium mg/l
Mean	79.83	326.56	596.93	378.28	0.72	24.29	0.30	56.86	44.21	2.06	12.60
Mean Deviatio	43.68	84.31	250.29	99.22	0.63	23.43	0.16	23.09	21.71	0.91	5.99
Min	12	212	335	176	0.06	ND	ND	32	13	1	5
Max	223	462	813	710	3.03	120	0.59	82	66	3.9	24

Huntington No.4 Mine: Lower Mill Fork

Location Upper Mill Fork
 STORET # 173150 Site # 4-3-W

DATE	F-Temp Deg. C	F-pH pH units	F-Sp.Cond umhos/cm	Flow GPM	L-pH pH units	T.Sus.Sol mg/l	D-Calciu mg/l	D-Magne mg/l	D-Potass mg/l	D-Sodium mg/l	Bicarbonat mg/l	Carbonat mg/l	Chloride mg/l	Fluoride mg/l	Nitrate N mg/l
01/15/86		1	8	540	0.5	8.3	16	59*	19	1	1	192	0	4	0.11
03/19/86		1	8.1	560	18.5	8.1	16	65	73	3	16	272	0	22	0.31
04/23/86		3	8	640	29.6	8.1 <1.						325	0	24	
05/13/86		2	8	600	562	8	66					290	0	10	
06/15/86		3	8.1	450	296	8.3	92					273	0	4	
07/24/86		10	8	510	249	8.1	8					287	0	8.2	
08/11/86		12	8.1	580	76.4	8 <1.						303	0	13	
09/24/86		9	8.1	875	58	7						208	0	14	0.15
10/01/86		5	8	480	36.4	8.2	2					342	0	16	
11/22/86		2	8.1	460	62.7	8.2	342					398	0	10	
12/07/86		2	8	300	56	7.6	106					153	0	24	
01/05/87		1	8.2	455	38	8.2	68					379	0	10	
02/06/87		1	8	660	72.2	8.1	26					400	0	12	
03/12/87		1	8.1	290	42								0	14	
05/01/87		6	8.1		42		1						0	24	
05/17/87		6	8	790	51		171	56	67	3	18	328	0	3	
06/07/88		4	8	180	56		13					272	0	3	
06/01/93		4.5	8.5	300	550	8.2	64					286	0	3.2	
05/14/96		10	7.46	276	63.6		71	59.7	22.7	0.78	4.83	279 <1.		1.87	

	Deg. C	pH units	umhos/cm	GPM	pH units	T.Sus.Sol mg/l	D-Calciu mg/l	D-Magne mg/l	D-Potass mg/l	D-Sodium mg/l	Bicarbonat mg/l	Carbonat mg/l	Chloride mg/l	Fluoride mg/l	Nitrate N mg/l
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Mean Deviatio	2.88	0.10	160.69	122.12	3.11	56.09	19.92	15.10	0.65	3.43	79.93 ND	ND	6.32	0.04	0.06
Min	1	7.46	180	0.5	7	ND	56	19	0.78	1	153 ND	ND	1.87	0.11	0.31
Max	12	8.5	875	562	8.3	342	65	73	3	18	400	0	24	0.16	0.33

Huntington No.4 Mine: Lower Mill Fork

DATE	Sulfate mg/l	T-Hardns mg/l	L-Sp. Cond umhos/cm	TDS @ 18 mg/l	T-Iron mg/l	T-Mn ug/l	Na Ads R	T-Calcium mg/l	T-Magnes mg/l	T-Potass mg/l	T-Sodium mg/l
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06/15/86	23	245	450	348	1.48	50	0.16	77	13	1	6
07/24/86	53	283	484	312	0.13	<20.	0.26	52	37	1.5	10
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09/24/86	223	406	813	710			0.37	82	49	3	17
10/01/86	93	387	701	400	0.11	<20.	0.34	46	66	2	16
11/22/86	64	380	668	400	3.03	120	0.24	71	50	2	11
12/07/86	68	212	335	176	0.15	<20.	0.32	32	32	2	11
01/05/87	70	372	666	372	2.19	60	0.3	62	53	2	13
02/06/87	69	382	701	414	0.92	60	0.31	59	57	2	14
03/12/87											
05/01/87	77	376		405	0.07	<20.		50	61	2	13
05/17/87	152	414		480	1.03						
06/07/88	21	238		250				59	22	1	5
06/01/93	17	228	436	256	0.22	<20.		58	20	3.9	6.4
05/14/96	20	243		370							

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Min	12	212	335	176	0.06	ND	ND	32	13	1	5
Max	223	462	813	710	3.03	120	0.59	82	66	3.9	24

Mountain Coal Company
West Elk Mine
Post Office Box 591
Somerset, Colorado 81434
Telephone 303 929-5015



*Need to
Replace this
with Letter
in 1996 Phase 3
Application*

April 23, 1997

Mr. William Joseph Madden
c/o Nancy S. Madden
2900 Connecticut Avenue, NW
Apartment 332
Washington, D.C. 20008

Certified - Return Receipt Requested

**Re: Notification of Application for Final
Bond Release
Huntington Canyon No. 4 Mine
INA/015/004, UT-004
Emery County, Utah**

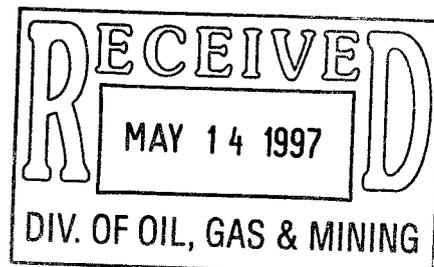
Dear Mr. Madden:

This letter is a duplicate of the notification sent to you on 02/15/96.

Mountain Coal Company has completed Phase III of its approved reclamation plan for the Huntington Canyon No. 4 Mine. This is based upon the successful completion of all mining and reclamation operations with a minimum period of 10 years following reclamation.

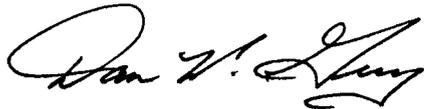
In accordance with the provisions of R645-301-880 of the Utah Coal Mining Reclamation Act, this letter will serve as notification that Mountain Coal Company has filed an application with the Utah Division of Oil, Gas and Mining for final release of the performance bond.

The original bond posted for this property was \$360,104.00, of which \$216,062.40 (60%) was released on November 10, 1986 upon approval of Phase I Bond Release. An additional \$97,307.60 was released on November 15, 1995 upon approval of Phase II Bond Release. The present bond posted for this site is \$46,734.00. Mountain Coal Company is seeking release of the balance of the bond, or \$46,734.00.



If you have any questions or comments, or need any further information, please let me know.

Respectfully,

A handwritten signature in cursive script, appearing to read "Dan W. Guy".

*Dan W. Guy, P.E.
for Paige B. Beville*

*cc: Paige Beville
File ✓*

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

*William Madden
2900 Conn. Ave. NW.
Apt 332
Washington DC 20008*

4a. Article Number

2382128986

4b. Service Type

- | | |
|---|---|
| <input type="checkbox"/> Registered | <input type="checkbox"/> Insured |
| <input checked="" type="checkbox"/> Certified | <input type="checkbox"/> COD |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Return Receipt for Merchandise |

7. Date of Delivery

4/28/97

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6.

PS

RECEIPT

Return Receipt Service Thank you for

2 382 128 986



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, March 1993

Sent to	<i>Madden To A. Madden</i>
Street and No.	<i>2900 Conn. Ave NW #332</i>
P.O., State and ZIP Code	<i>Washington DC 20008</i>
Postage	<i>\$.52</i>
Certified Fee	<i>1.10</i>
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	<i>1.10</i>
Return Receipt Showing Date, and Address to Whom	
TOTAL Postage & Fees	<i>\$ 2.52</i>
Postmark or Date	<i>APR 28 1997</i>



$$\begin{array}{r} 234 \\ 884 \\ \hline 350 \\ M \end{array}$$

Last fall Brent Honey
FS Susan White
late summer
he oval



Marriott
HOTELS · RESORTS · SUITES

Weir - red lined
and fine
FS
concrete

SA letter ✓

DO

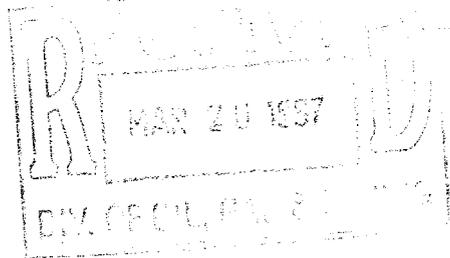
At least one
more year.

Feb
checked @ out of pond
6/24
FS Pond
Feb. Pond
95% pond
Certified

Special Use Permit →
seeded last fall
90% criteria

Reservations: 800-228-9290

Mountain Coal Company
West Elk Mine
Post Office Box 591
Somerset, Colorado 81434
Telephone 303 929-5015



March 17, 1997

Pamela Grubaugh - Littig
Permit Supervisor
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801

Attn: Susan White
Sharon Falvey

Copy for Susan

Re: *Joe*
Phase III-Bond Release
Huntington Canyon No. 4 Mine
INA / 015 / 004-96A; Folder #2
Emery County, Utah

Dear Ms. Littig:

Susan & Sharon
(2-sided)

In reference to your letter of October 16, 1996, Mountain Coal Company is herein providing 3 copies of additional information on the hydrology and revegetation for the Huntington Canyon No. 4 Mine. The following is a brief description of the information being submitted along with the regulatory reference:

R 645-301-750 - Water monitoring results have been summarized for all stations monitored since reclamation in the fall of 1985. Also included is information on the Little Bear Spring from 1982 through 1996, provided by the Castle Valley Special Services District. Certain monitoring stations (4-1-W, 4-2-W, 4-4-W, 4-5-W) were eliminated prior to - or shortly after - reclamation. All available data for these stations has been provided; however, only 4-1-W (Little Bear Spring), 4-3-W, 4-6-W, 4-7-W, and 4-8-W have been continually monitored over the past 11 years.

Based on available data, there is no evidence of subsurface impacts to the area, nor is there any indication of a probability of future impacts. Mining ceased on this site nearly 13 years ago, and the area has been reclaimed over 11 years. Any impacts to the hydrologic regime would certainly be expected to have become evident by this time.

R645-301-356 - Information has been provided to verify the minimum sample size has been met according to the Division's Vegetation Information Guidelines.

R645-301-357 - Vegetation information for the last two years of the responsibility period is herein provided.

R645-301-880.330 - Amendments have been submitted for the permit to meet the production and species diversity requirements of the Act, as suggested.

We are also working with the U.S. Forest Service to resolve their concern over the reclaimed sediment pond area. I am confident we can show (or ensure) vegetation success on the area without waiting 2 years. The area will be re-evaluated as soon as the site becomes accessible.

It is our hope this information will satisfy the noted deficiencies. If you have any questions, or need further information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan W. Guy". The signature is fluid and cursive, with a large initial "D" and "G".

Dan W. Guy

for

Paige B. Beville

cc: Paige Beville
File



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

October 16, 1996

Paige Beville, Manager
Environmental, Health and Safety
ARCO Coal Company
555 17th Street, Suite 2170
Denver, CO 80202

Re: Phase III Bond Release Review, Huntington #4 Mine, Mountain Coal Company, ACT/015/004 - 96A, Folder #2, Emery County, Utah

Dear Ms. Beville:

The Division received the Phase III bond release application for the Huntington #4 Mine on February 20, 1996 and this bond release inspection was conducted on June 27, 1996 in conjunction with the Office of Surface Mining. The technical staff reviewed the application and in conjunction with the inspection the following items have been identified as deficiencies and must be addressed prior to release:

R645-301-750

The bond release application did not address whether surface or subsurface impacts are occurring or whether there is a probability of future occurrence. Therefore, to adequately address this, the surface and ground water quantity and quality should be summarized to demonstrate that disturbance to the hydrologic balance in the permit area and adjacent areas has been minimized and to demonstrate that the water quality and quantity are suitable for the postmining land use. This includes surface water sites upstream and downstream of the disturbed area as well as the Little Bear Spring.

The Little Bear Spring (monitored as 4-1-W) was monitored as part of the requirement for the Huntington #4 Mine permit. The premining (if it exists), operational, and postmining water quality and quantity for Little Bear Spring should be assessed to determine whether changes in water quantity and quality have occurred throughout the mining and reclamation period.



Phase III Bond Release
Huntington #4 Mine
Page 2

- R645-301-356 The application must contain the minimum sample size using the minimum sample size formula as identified in the Division's Vegetation Information Guidelines. The minimum sample sized must be met prior to approval of the bond release.
- R645-301-357 The application must contain vegetation information for the last two years of the responsibility period.
- R645-301-880.330 The production data does not meet the reclamation requirements of the permit. The permit, however, may be changed to meet the requirements of the Act.
The species diversity does not meet the reclamation requirements of the permit. The permit may be changed to meet the requirement of the Act.

During the inspection, it was noted that vegetation on the reclaimed sediment pond area was sparse. This area was also discussed in a letter to the Division from the Manti-La Sal National Forest, dated July 17, 1996 (attached).

Subsidence mitigation and highwall elimination have been found to be adequately addressed.

I have enclosed the staff memos for your information. If you have any questions about any of the outstanding issues, please call me or the Division staff.

Sincerely,


Pamela Grubaugh-Littig
Permit Supervisor

Enclosure

cc: Dennis Winterringer, OSM, WRCC
Jeff DeFreest, Manti-La Sal National Forest
Mary Ann Wright
Daron Haddock (w/o enc)
Joe Helfrich (w/o enc)
Sharon Falvey (w/o enc)
Jess Kelley (w/o enc)
Susan White (w/o enc)

United States
Department of
Agriculture

Forest
Service

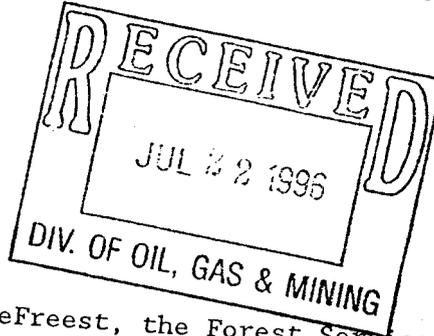
Manti-La Sal
National Forest

Ferron/Price Ranger District
Price Work Center
599 West Price River Drive
Price, Utah 84501

File Code: 2820

Date: July 17, 1996

Pam Grubaugh-Littig
Division of Oil, Gas & Mining
Box 145801
Salt Lake City, Utah 84114-5801



Act 1015/004 #2
Copy Susan
ad PAM

Dear Pam,

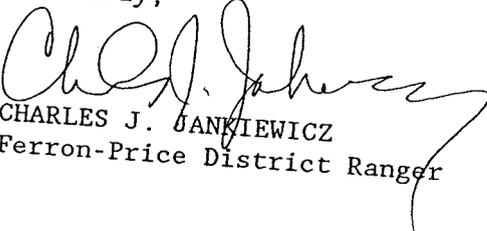
As discussed between you and Jeff DeFreest, the Forest Service is unable to consent to the phase three bond release for the Huntington No. 4 Mine in Mill Fork Canyon at this time. It was our understanding that the phase three (final) bond release was planned for the field season of 1997 or 1998.

It was with this understanding that we opted to cancel the special use permit for the site containing the settling pond at the request of Mr. Dan Guy. Since the special use permit had no bond associated with it, and the reclamation bond on the mine itself served to protect the interests of the forest service, when Mr. Dan Guy requested the termination of the special use permit earlier this year, we consented. It was stated at that time that we were expecting the phase three bond release to take place two to three years in the future.

The reclamation and recontouring of the pond was only completed last summer, and the seeding not accomplished until last autumn. The vegetation on the site is still sparse, and we recommend the fence remain in place for at least one more year to allow for undisturbed revegetation. It is likely that it will take the next two growing seasons to properly establish grasses and assure that noxious weeds are not invading the site.

If you have any questions or concerns, please contact Jeff DeFreest, District Geologist at 801-637-2817.

Sincerely,


CHARLES J. JANKIEWICZ
Ferron-Price District Ranger



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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801-538-5319 (TDD)

August 15, 1996

TO: File

THRU: Pam Grubaugh-Littig, Bond Release Coordinator *sgl*
SKK

FROM: Sharon Falvey, Senior Reclamation Hydrologist

Re: Phase III Bond Release Technical Review, Huntington #4 Mine, Mountain Coal Company, ACT/015/004-93B, Folder #3, Emery County, Utah

Synopsis:

Mountain Coal Company submitted an application for Phase III Bond Release on April 2, 1996. Phase II bond release was conditionally approved based on an removal of the sediment pond which was completed in September 1995.

Analysis:

No information on the design for the culvert construction and final configuration was found in the existing plan or, the 1995 amendment files. However, amendment 95-B which identified the proposed changes was previously approved. This information was archived. The approved version is now incorporated into the plan. Additional copies should be submitted to appropriate agencies if, this has not already been done.

In order to obtain Phase II bond release, an analysis of sediment production from the site was presented and accepted by the Division. However, no analysis stating whether surface or subsurface impacts are occurring or whether there is a probability of future occurrence was assessed by the Division. The Operator should summarize the surface and ground water quantity and quality to demonstrate that disturbance to the hydrologic balance in the permit and adjacent areas has been minimized and to demonstrate that the water quality and quantity are suitable for the post mining land use. The operator must show the performance standards of R645-301-750 and all requirements of the act have been met according to R645-301-880.330. Following presentation of this summary by the operator the Division will be able to address the requirements under R645-301-880.210.

1. The Technical Analysis indicated that mining ceased to prevent impacts to Little Bear Springs. This station was formally identified and monitored as site 4-1-W under the



Huntington #4 permit and is currently monitored by the Castle Valley Special Services District. The premining (if it exists), operational, and postmining water quality and quantity for Little Bear Spring, should be assessed to determine whether changes in water quantity and quality have occurred throughout the mining and reclamation period and determine whether the changes, if noted, are related to mining. This analysis is important since, future mining activities potentially affecting Little Bear Spring may occur.

2. The surface water sites upstream and downstream of the disturbed area.

One other area within the permit and reclaimed area is issuing water. However, this site is associated with the Leamaster Mine and was reclaimed under the abandoned mine reclamation program Spring Canyon Project, Millfork Site AMR/007/905. This site has not been considered a discharge under the purview of the Huntington #4 permit.

Findings:

Prior to Phase III bond release the Division must make a finding under R645-301-880.210 regarding occurrence and potential for water pollution. Prior to making this statement the operator will need to submit the following in accordance with the requirements of:

R645-301-880.330, assess impacts to Little Bear Spring and surface water sites according to the performance standards, demonstrate through data analysis that the operator has minimized disturbance to the hydrologic balance in the permit and adjacent areas and show that the water quality and quantity are suitable for the post mining land uses.

cc: Daron Haddock, Permit Supervisor
Susan White, Senior Reclamation Biologist

*Little Bear Spring -
Castle Valley data*

Summarizing

Called Dan on 8/29.

*Left message w/ Dana
re: need Little Bear
data.*



State of Utah
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September 3, 1996

TO: File

THRU: Pam Grubaugh-Littig, Bond Release Coordinator *PL*

FROM: Susan M. White, Senior Reclamation Biologist *SMW*

RE: Phase III Bond Release, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #3, Emery County, Utah

Synopsis

Mountain Coal Company submitted Application for Phase III Bond Release for the above referenced mine; date received April 2, 1996. A bond release site inspection was conducted June 27, 1996. Mountain Coal Company completed reclamation at its Huntington Canyon No. 4 Mine in the fall of 1985, thus meeting the minimum 10 year liability period in the fall of 1995. Several items and deficiencies exist in the application which must be addressed prior to Division review of the application. On June 27, 1996 the reclaimed sediment pond area did not have established vegetation. The bond should not be released.

REVEGETATION

Regulatory Reference: 30 CFR Sec. 785.18, 817.111, 817.113, 817.114, 817.116; R645-301-244, -301-353, -301-354, -301-355, -301-356, -302-280, -302-281, -302-282, -302-283, -302-284.

Analysis:

Standards for Success.

The Application for Phase III Bond Release presented information from vegetation sampling in 1995. Vegetative cover, production, diversity, and shrub densities were sampled as required by the permit. The regulations, for areas previously disturbed by mining that were not reclaimed, are that the vegetative ground cover will be not less than the ground cover existing before redisturbance and will be adequate to control erosion and achieve the approved postmining land use. The Division's interpretation is that continuously mined sites also apply to this standard. R645-301-357 states that the vegetation parameters will equal or exceed the approved success standard during the growing seasons for the last two years of the responsibility period and that, in areas of less than 26 inches or less average annual precipitation,



the period will be for not less than ten full years.

The operator has met the 10 year requirement. The operator has also sampled the agreed vegetation parameters for the last two years of the growing season, 1994 and 1995. However, the 1994 data was not included in the application. Prior to review the application must contain two years of vegetation sampling.

R645-301-356 states that approved sampling methods are identified in the Division's Vegetation Information Guidelines. All methods used in the No. 4 Mine sampling are approved by the Guidelines except for the minimum sample size formula. The formula used in the application is very close to the Divisions, but is not the approved formula. The 1994 and 1995 data must have the minimum sample size recalculated and resubmitted. All sampling must meet the minimum sample size requirements. Several parameters identified in Table 41 of the application do not meet minimum sample size requirements. The Division must deny Phase III Bond Release and require an additional two years of sampling unless this issue is resolved.

Table 35 of the vegetation study has missing numbers.

Page 3-67a of the permit states:

The success of the reclamation effort will be evaluated by detailed sampling of cover and production on reclaimed areas. These data will then be statistically compared with data for the same parameters collected from the reference areas ... If there is no significant difference in cover and production between the reclaimed areas and the reference areas when tested at the 95 percent significance level using a one-tailed t-test, then the areas will be judged to be adequately reclaimed relative to cover and production. Woody plant density will be judged adequate based on a stocking rate equal to or greater than 90 percent of the stocking of live woody plants that are contained in the reference area.

The 1995 cover data meets the requirements of the permit and the regulations. Vegetation cover on the lower area (47 percent) and the upper road (48 percent) was equal to or greater than the associated reference area (31 percent) cover. Vegetation cover on the riparian area (70 percent) was not significantly different than the vegetation cover of the riparian reference area (71 percent).

The 1995 production data does not meet the requirements of the permit. The production of the lower area (690 lbs/acre) and upper area (828 lbs/acre) was significantly greater than the total annual biomass from the associated reference area (208 lbs/acre). The production of the riparian area was significantly lower in the reclaimed area (270 lbs/acre) than the total annual biomass from the riparian reference area (464 lbs/acre).

The 1995 woody plant density meets the requirements of the permit and the regulations. Woody species densities were greater on the lower area (1940 plants/acre) and the upper area (2552 plants/acre) than in the associated reference area. The reclaimed riparian area (2352 plants/acre) had greater woody plant density than the riparian reference area (1481 plants/acre).

The permit states:

Species diversity will be judged adequate when the relative cover and percent distribution of biomass for the major life form groups approximates that which occurs in the reference areas. That is, if the relative cover by perennial grasses is 50 percent in the reference areas, then the relative cover by perennial grasses on the reclaimed area should also be approximately 50 percent.

The 1995 data shows that the lower area had six species with a relative cover of greater than 5 percent (4 grass, 1 shrub, 1 forb). Based on relative cover the grasses comprised 46 percent, forbs 38 percent and shrubs 13 percent of the relative cover. The 1995 data for the upper area also showed six species with relative cover of greater than five percent (4 grass, 1 shrub, 1 forb). Based on relative cover for the upper area grasses comprised 45 percent, forbs 36 percent and shrubs 19 percent of the relative cover. The reference area had two species with a relative cover of greater than 5 percent (1 grass, 1 tree). The data shows that grass comprised 78 percent and trees comprised 21 percent and forbs 2 percent of the relative cover. The reclaimed riparian area had 7 species with relative cover greater than 5 percent (4 grass, 2 forb, 1 shrub). The data show that grasses comprised 44 percent, forbs 23 percent and shrubs 32 percent of the relative cover. The riparian reference area had 4 species with relative cover greater than 5 percent (2 grass, 1 forb, 1 shrub). The data shows that grass comprised 39 percent, forbs 42 percent, shrubs 15 percent and trees 7 percent of the relative cover.

	Grass (relative cover)	Forb (relative cover)	Shrub (relative cover)
Lower Area	46%	38%	13%
Upper Area	45%	36%	19%
Reference Area	78%	2%	21%
Riparian Area	44%	23%	32%
Riparian Reference Area	39%	42%	22%

The 1995 bond release application discusses diversity and makes a good argument that the reclaimed areas are diverse using cover data and diversity indices. However, the application

does not discuss diversity using cover data as applied to life forms as required by the permit. As presented above, diversity using cover data by life forms the reclaimed area is mostly not similar to the associated reference areas.

A site inspection was conducted by the Division on June 27, 1996 to assess the site for the Phase III bond release. The site appeared to be meeting the post mining land use of grazing and wildlife. While most of the site had been fenced to exclude cattle, elk use had been heavy especially on the upper area. Cattle had not been excluded from the reclaimed riparian area and the site appears in good condition.

The sediment pond had been removed in the summer of 1995 and the area seeded. At the time of the June 27, 1996 site inspection seedling density appeared good. The reseeded area of sediment pond removal does not have to meet the 10 year liability period, however, it does need to meet other standards of being diverse, effective and permanent. In other words the area should look like the rest of the site prior to release. The reclaimed pond area did not look like the surrounding area, seedlings were not considered established. Therefore, bond may not be released. Another inspection will be conducted in September 1996 to assess vegetation establishment in this area.

Finding:

The vegetation on the reclaimed sediment pond area does not appear to be established and therefore the bond may not be released.

The permittee must provide the following information in the Application for Phase III Bond Release and the permit, prior to approval, in accordance with the requirements of:

R645-301-356, the application must contain the minimum sample size using the minimum sample size formula as identified in the Division's Vegetation Information Guidelines.

The minimum sample sizes must be met prior to approval.

R645-301-357, the application must contain vegetation information for the last two years of the responsibility period.

R645-301-880.330, the production data does not meet the reclamation requirements of the permit. The permit may be changed to meet the requirements of the Act.

R645-301-880.330, species diversity does not meet the reclamation requirements of the permit. The permit may be changed to meet the requirements of the Act.



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DIVISION OF OIL, GAS AND MINING

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October 8, 1996

TO: File

THRU: Daron Haddock, Permit Supervisor *DH*
Pamela Grubaugh-Littig, Permit Coordinator *pgl*

FROM: Jess Kelley, Reclamation Engineer *JK*

RE: Phase III Bond Release, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #2, Emery County, Utah

SYNOPSIS

The permittee recently applied to the Division for Phase III Bond Release on this site. On June 27, 1996, Division representatives, representatives of the permittee, and Mike Rosenthal of OSM, visited the site to evaluate it for compliance with the regulatory requirements of Phase III Bond Release. This memorandum constitutes this writer's findings, based on both the June 27 site visit and on an examination of the approved plan.

ANALYSIS

From this writer's standpoint, two issues are pertinent to Phase III Bond Release at this site: 1) whether or not all highwalls have been eliminated, and 2) whether or not there is any unmitigated subsidence damage within or adjacent to the permit area.

As for highwall elimination, the Division has found that, in accordance with R645-301-553.520, all highwalls have been eliminated "to the maximum extent technically practical" using all "reasonably available spoil." There is a small highwall remnant above the upper portal area. Since this site was originally mined in the 1940s and no fill material was salvaged or stockpiled for the reclamation of the highwall, it cannot be completely eliminated. This was the subject of Ten-Day Notice (TDN) X94-020-179-003 TV1, which the Office of Surface Mining (OSM) issued in June of 1994. The Division's response to the TDN, which OSM accepted, included a written demonstration from the permittee that there is insufficient reasonably available spoil to completely eliminate the highwall.



As for unmitigated subsidence damage, this writer finds none. Subsidence surveys done every year and submitted to the Division with the annual report show no detectable subsidence for the past several years. Furthermore, the 1995 annual report, which was submitted to the Division in March of this year, included a letter stating that, during an on-the-ground subsidence reconnaissance, the permittee was unable to find any sign of subsidence or subsidence damage in the permit area or the adjacent area. This writer's observations of this site and its environs are in accordance with this assessment.

FINDINGS/RECOMMENDATIONS

This site is in compliance with the regulatory and permit requirements for Phase III Bond Release. It is recommended that the remaining portion of the bond be released.

P3BNDRLS.H#4

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Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

October 16, 1996

Paige Beville, Manager
Environmental, Health and Safety
ARCO Coal Company
555 17th Street, Suite 2170
Denver, CO 80202

Re: Phase III Bond Release Review, Huntington #4 Mine, Mountain Coal Company, ACT/015/004 - 96A, Folder #2, Emery County, Utah

Dear Ms. Beville:

The Division received the Phase III bond release application for the Huntington #4 Mine on February 20, 1996 and this bond release inspection was conducted on June 27, 1996 in conjunction with the Office of Surface Mining. The technical staff reviewed the application and in conjunction with the inspection the following items

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FINDINGS/RECOMMENDATIONS

This site is in compliance with the regulatory and permit requirements for Phase III Bond Release. It is recommended that the remaining portion of the bond be released.



State of Utah
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL, GAS AND MINING

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The Division received the Phase III bond release application for the Huntington #4 Mine on February 20, 1996 and this bond release inspection was conducted on June 27, 1996 in conjunction with the Office of Surface Mining. The technical staff reviewed the application and in conjunction with the inspection the following items have been identified as deficiencies and must be addressed prior to release:

R645-301-750

The bond release application did not address whether surface or subsurface impacts are occurring or whether there is a probability of future occurrence. Therefore, to adequately address this, the surface and ground water quantity and quality should be summarized to demonstrate that disturbance to the hydrologic balance in the permit area and adjacent areas has been minimized and to demonstrate that the water quality and quantity are suitable for the postmining land use. This includes surface water sites upstream and downstream of the disturbed area as well as the Little Bear Spring.

The Little Bear Spring (monitored as 4-1-W) was monitored as part of the requirement for the Huntington #4 Mine permit. The premining (if it exists), operational, and postmining water quality and quantity for Little Bear Spring should be assessed to determine whether changes in water quantity and quality have occurred throughout the mining and reclamation period.

Post-it® Fax Note	7671	Date	10/16	# of pages	11
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Phone #		Phone #			
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Phase III Bond Release
Huntington #4 Mine
Page 2

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The species diversity does not meet the reclamation requirements of the permit. The permit may be changed to meet the requirement of the Act.

During the inspection, it was noted that vegetation on the reclaimed sediment pond area was sparse. This area was also discussed in a letter to the Division from the Manti-La Sal National Forest, dated July 17, 1996 (attached).

Subsidence mitigation and highwall elimination have been found to be adequately addressed.

I have enclosed the staff memos for your information. If you have any questions about any of the outstanding issues, please call me or the Division staff.

Sincerely,


Pamela Grubaugh-Littig
Permit Supervisor

Enclosure

cc: Dennis Winterringer, OSM, WRCC
Jeff DeFreest, Manti-La Sal National Forest
Mary Ann Wright
Daron Haddock (w/o enc)
Joe Helfrich (w/o enc)
Sharon Falvey (w/o enc)
Jess Kelley (w/o enc)
Susan White (w/o enc)

United States
Department of
Agriculture

Forest
Service

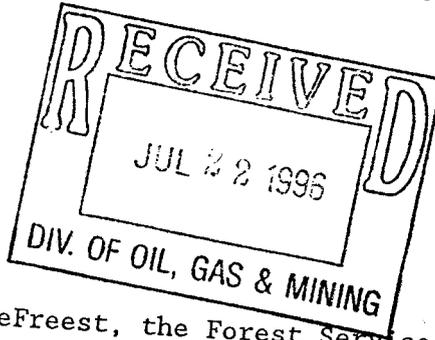
Manti-La Sal
National Forest

Ferron/Price Ranger District
Price Work Center
599 West Price River Drive
Price, Utah 84501

File Code: 2820

Date: July 17, 1996

Pam Grubaugh-Littig
Division of Oil, Gas & Mining
Box 145801
Salt Lake City, Utah 84114-5801



Act 1015/004 #2
Copy Susan
sd PAM

Dear Pam,

As discussed between you and Jeff DeFreest, the Forest Service is unable to consent to the phase three bond release for the Huntington No. 4 Mine in Mill Fork Canyon at this time. It was our understanding that the phase three (final) bond release was planned for the field season of 1997 or 1998.

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Ferron-Price District Ranger



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August 15, 1996

TO: File

THRU: Pam Grubaugh-Littig, Bond Release Coordinator *gr*
SKK

FROM: Sharon Falvey, Senior Reclamation Hydrologist

Re: Phase III Bond Release Technical Review, Huntington #4 Mine, Mountain Coal Company, ACT/015/004-93B, Folder #3, Emery County, Utah

Synopsis:

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cc: Daron Haddock, Permit Supervisor
Susan White, Senior Reclamation Biologist

*Little Bear Spring -
Castle Valley data*

*Summarizing ←
Called Dan on 8/29.
Left message w/ Dana
re: need Little Bear
data.*



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September 3, 1996

TO: File

THRU: Pam Grubaugh-Littig, Bond Release Coordinator *PGL*

FROM: Susan M. White, Senior Reclamation Biologist *SMW*

RE: Phase III Bond Release, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #3, Emery County, Utah

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The Application for Phase III Bond Release presented information from vegetation sampling in 1995. Vegetative cover, production, diversity, and shrub densities were sampled as required by the permit. The regulations, for areas previously disturbed by mining that were not reclaimed, are that the vegetative ground cover will be not less than the ground cover existing before redisturbance and will be adequate to control erosion and achieve the approved postmining land use. The Division's interpretation is that continuously mined sites also apply to this standard. R645-301-357 states that the vegetation parameters will equal or exceed the approved success standard during the growing seasons for the last two years of the responsibility period and that, in areas of less than 26 inches or less average annual precipitation,



the period will be for not less than ten full years.

The operator has met the 10 year requirement. The operator has also sampled the agreed vegetation parameters for the last two years of the growing season, 1994 and 1995. However, the 1994 data was not included in the application. Prior to review the application must contain two years of vegetation sampling.

R645-301-356 states that approved sampling methods are identified in the Division's Vegetation Information Guidelines. All methods used in the No. 4 Mine sampling are approved by the Guidelines except for the minimum sample size formula. The formula used in the application is very close to the Divisions, but is not the approved formula. The 1994 and 1995 data must have the minimum sample size recalculated and resubmitted. All sampling must meet the minimum sample size requirements. Several parameters identified in Table 41 of the application do not meet minimum sample size requirements. The Division must deny Phase III Bond Release and require an additional two years of sampling unless this issue is resolved.

Table 35 of the vegetation study has missing numbers.

Page 3-67a of the permit states:

The success of the reclamation effort will be evaluated by detailed sampling of cover and production on reclaimed areas. These data will then be statistically compared with data for the same parameters collected from the reference areas ... If there is no significant difference in cover and production between the reclaimed areas and the reference areas when tested at the 95 percent significance level using a one-tailed t-test, then the areas will be judged to be adequately reclaimed relative to cover and production. Woody plant density will be judged adequate based on a stocking rate equal to or greater than 90 percent of the stocking of live woody plants that are contained in the reference area.

The 1995 cover data meets the requirements of the permit and the regulations. Vegetation cover on the lower area (47 percent) and the upper road (48 percent) was equal to or greater than the associated reference area (31 percent) cover. Vegetation cover on the riparian area (70 percent) was not significantly different than the vegetation cover of the riparian reference area (71 percent).

The 1995 production data does not meet the requirements of the permit. The production of the lower area (690 lbs/acre) and upper area (828 lbs/acre) was significantly greater than the total annual biomass from the associated reference area (208 lbs/acre). The production of the riparian area was significantly lower in the reclaimed area (270 lbs/acre) than the total annual biomass from the riparian reference area (464 lbs/acre).

The 1995 woody plant density meets the requirements of the permit and the regulations. Woody species densities were greater on the lower area (1940 plants/acre) and the upper area (2552 plants/acre) than in the associated reference area. The reclaimed riparian area (2352 plants/acre) had greater woody plant density than the riparian reference area (1481 plants/acre).

The permit states:

Species diversity will be judged adequate when the relative cover and percent distribution of biomass for the major life form groups approximates that which occurs in the reference areas. That is, if the relative cover by perennial grasses is 50 percent in the reference areas, then the relative cover by perennial grasses on the reclaimed area should also be approximately 50 percent.

The 1995 data shows that the lower area had six species with a relative cover of greater than 5 percent (4 grass, 1 shrub, 1 forb). Based on relative cover the grasses comprised 46 percent, forbs 38 percent and shrubs 13 percent of the relative cover. The 1995 data for the upper area also showed six species with relative cover of greater than five percent (4 grass, 1 shrub, 1 forb). Based on relative cover for the upper area grasses comprised 45 percent, forbs 36 percent and shrubs 19 percent of the relative cover. The reference area had two species with a relative cover of greater than 5 percent (1 grass, 1 tree). The data shows that grass comprised 78 percent and trees comprised 21 percent and forbs 2 percent of the relative cover. The reclaimed riparian area had 7 species with relative cover greater than 5 percent (4 grass, 2 forb, 1 shrub). The data show that grasses comprised 44 percent, forbs 23 percent and shrubs 32 percent of the relative cover. The riparian reference area had 4 species with relative cover greater than 5 percent (2 grass, 1 forb, 1 shrub). The data shows that grass comprised 39 percent, forbs 42 percent, shrubs 15 percent and trees 7 percent of the relative cover.

	Grass (relative cover)	Forb (relative cover)	Shrub (relative cover)
Lower Area	46%	38%	13%
Upper Area	45%	36%	19%
Reference Area	78%	2%	21%
Riparian Area	44%	23%	32%
Riparian Reference Area	39%	42%	22%

The 1995 bond release application discusses diversity and makes a good argument that the reclaimed areas are diverse using cover data and diversity indices. However, the application

does not discuss diversity using cover data as applied to life forms as required by the permit. As presented above, diversity using cover data by life forms the reclaimed area is mostly not similar to the associated reference areas.

A site inspection was conducted by the Division on June 27, 1996 to assess the site for the Phase III bond release. The site appeared to be meeting the post mining land use of grazing and wildlife. While most of the site had been fenced to exclude cattle, elk use had been heavy especially on the upper area. Cattle had not been excluded from the reclaimed riparian area and the site appears in good condition.

The sediment pond had been removed in the summer of 1995 and the area seeded. At the time of the June 27, 1996 site inspection seedling density appeared good. The reseeded area of sediment pond removal does not have to meet the 10 year liability period, however, it does need to meet other standards of being diverse, effective and permanent. In other words the area should look like the rest of the site prior to release. The reclaimed pond area did not look like the surrounding area, seedlings were not considered established. Therefore, bond may not be released. Another inspection will be conducted in September 1996 to assess vegetation establishment in this area.

Finding:

The vegetation on the reclaimed sediment pond area does not appear to be established and therefore the bond may not be released.

The permittee must provide the following information in the Application for Phase III Bond Release and the permit, prior to approval, in accordance with the requirements of:

R645-301-356, the application must contain the minimum sample size using the minimum sample size formula as identified in the Division's Vegetation Information Guidelines.

The minimum sample sizes must be met prior to approval.

R645-301-357, the application must contain vegetation information for the last two years of the responsibility period.

R645-301-880.330, the production data does not meet the reclamation requirements of the permit. The permit may be changed to meet the requirements of the Act.

R645-301-880.330, species diversity does not meet the reclamation requirements of the permit. The permit may be changed to meet the requirements of the Act.



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

October 8, 1996

TO: File

THRU: Daron Haddock, Permit Supervisor *DH*
Pamela Grubaugh-Littig, Permit Coordinator *pgl*

FROM: Jess Kelley, Reclamation Engineer *JK*

RE: Phase III Bond Release, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #2, Emery County, Utah

SYNOPSIS

The permittee recently applied to the Division for Phase III Bond Release on this site. On June 27, 1996, Division representatives, representatives of the permittee, and Mike Rosenthal of OSM, visited the site to evaluate it for compliance with the regulatory requirements of Phase III Bond Release. This memorandum constitutes this writer's findings, based on both the June 27 site visit and on an examination of the approved plan.

ANALYSIS

From this writer's standpoint, two issues are pertinent to Phase III Bond Release at this site: 1) whether or not all highwalls have been eliminated, and 2) whether or not there is any unmitigated subsidence damage within or adjacent to the permit area.

As for highwall elimination, the Division has found that, in accordance with R645-301-553.520, all highwalls have been eliminated "to the maximum extent technically practical" using all "reasonably available spoil." There is a small highwall remnant above the upper portal area. Since this site was originally mined in the 1940s and no fill material was salvaged or stockpiled for the reclamation of the highwall, it cannot be completely eliminated. This was the subject of Ten-Day Notice (TDN) X94-020-179-003 TV1, which the Office of Surface Mining (OSM) issued in June of 1994. The Division's response to the TDN, which OSM accepted, included a written demonstration from the permittee that there is insufficient reasonably available spoil to completely eliminate the highwall.



As for unmitigated subsidence damage, this writer finds none. Subsidence surveys done every year and submitted to the Division with the annual report show no detectable subsidence for the past several years. Furthermore, the 1995 annual report, which was submitted to the Division in March of this year, included a letter stating that, during an on-the-ground subsidence reconnaissance, the permittee was unable to find any sign of subsidence or subsidence damage in the permit area or the adjacent area. This writer's observations of this site and its environs are in accordance with this assessment.

FINDINGS/RECOMMENDATIONS

This site is in compliance with the regulatory and permit requirements for Phase III Bond Release. It is recommended that the remaining portion of the bond be released.

P3BNDRLS.H#4

 * P.01 *
 * TRANSACTION REPORT *
 * SEP-19-96 THU 05:05 PM *
 * SEND (M) *
 * DATE START RECEIVER TX TIME PAGES TYPE NOTE M# DP *
 * SEP-19 04:57 PM 18016372431 8'01" 7 SEND (M) OK 039 *
 * TOTAL 8M 1S PAGES: 7 *



State of Utah
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
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 Salt Lake City, Utah 84114-5801
 801-359-3940 (Fax)
 801-538-5319 (TDD)

UTAH DIVISION OF OIL, GAS AND MINING
 FACSIMILE COVER SHEET

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 COMPANY: Blackhawk Engineering
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 DEPARTMENT: DOG M
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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

INSPECTION REPORT

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

Partial: Complete: X Exploration:
Inspection Date & Time: 6/27/96 10 to 2
Date of Last Inspection: 3/12/96

Mine Name: Huntington #4 County: Emery Permit Number: ACT/015/004

Permittee and/or Operator's Name: Mountain Coal Company

Business Address: P.O. Box 591 Somerset, CO 81434 (303)929-5015

Type of Mining Activity: Underground X Surface Prep. Plant Other

State Officials(s): Susan White, Jess Kelley, Mike Suflika, Bob Davidson, Pam Grubaugh-Littig, Sharon Falvey

Company Official(s): Dan Guy (Blackhawk), Dana Ballard (Blackhawk), Christine Johnston (MCC)

Federal Official(s): Michael Rosenthal (OSM)

Weather Conditions: Fair and cool

Existing Acreage: Permitted-1320 Disturbed-25.0 Regraded-12.5 Seeded-25.0 Bonded-25.0

Increased/Decreased: Permitted- Disturbed- Regraded- Seeded- Bonded-

Status: Exploration/ Active/ Inactive/ Temporary Cessation/ Bond Forfeiture

Reclamation (X Phase I/ Phase II/ Final Bond Release/ Liability Year)

REVIEW OF PERMIT, PERFORMANCE STANDARDS & PERMIT CONDITION REQUIREMENTS

Instructions

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 N/A.
 - b. For partial inspections check only the elements evaluated.
2. Document any noncompliance situation by referencing 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, Division Orders, and amendments.

	<u>EVALUATED</u>	<u>N/A</u>	<u>COMMENTS</u>	<u>NOV/ENF</u>
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 type="checkbox"/>	<input type="checkbox"/>
3. TOPSOIL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. HYDROLOGIC BALANCE:				
a. DIVERSIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. SEDIMENT PONDS AND IMPOUNDMENTS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. OTHER SEDIMENT CONTROL MEASURES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. WATER MONITORING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. EFFLUENT LIMITATIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. EXPLOSIVES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. DISPOSAL OF EXCESS SPOIL/FILLS/BENCHES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. COAL MINE WASTE/REFUSE PILES/IMPOUNDMENTS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. NONCOAL WASTE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>
14. SUBSIDENCE CONTROL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15. CESSATION OF OPERATIONS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. ROADS:				
a. CONSTRUCTION/MAINTENANCE/SURFACING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. 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 (4th Quarter-April, May, June) <u> </u> (date)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. AIR QUALITY PERMIT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. BONDING & INSURANCE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



INSPECTION REPORT

(Continuation sheet)

Page 2 of 3

PERMIT NUMBER: ACT/015/004

DATE OF INSPECTION: 6/27/96

(Comments are Numbered to Correspond with Topics Listed Above)

This complete inspection was held simultaneously with a Phase III bond release inspection.

1. PERMITS, CHANGE, TRANSFER, RENEWAL, SALE

The reclamation permit was issued April 30, 1995 and expires April 30, 2000. No stipulations were attached to the permit.

Two Forest Service Special Uses permits are still outstanding. The sediment ponds and the stream flow and water quality monitoring network. A letter received by the Division September 30, 1995 from the Forest Service states that the area where the flume was removed has been reclaimed to their satisfaction pending seeding. The Division received a copy of a letter sent to the Forest Service, January 18, 1996, from the permittee which requests the cancellation of the 2 remaining Special Use Permits.

On February 20, 1996 the Division received an Application for final (Phase III) bond release from the permittee. This site has met the minimum 10 year period of liability. The Division is currently processing this request. This complete inspection coincided with a Phase III site release bond inspection.

4. HYDROLOGIC BALANCE:

a. Diversions - All diversions appeared to be functioning with no evidence of recent flows. The small diversion off the lower pad near the old topsoil pile requires additional work. This work should be coordinated with the assistance of Division Hydrologist, Sharon Falvey. Wire mesh gabions in the upper drainage must also be removed.

d. Water Monitoring - All water monitoring locations were reported as required for the first quarter reporting period. All sites were reported as inaccessible.

8. NONCOAL WASTE

All noncoal waste items had been removed as requested in the last inspection.

INSPECTION REPORT

(Continuation sheet)

Page 3 of 3

PERMIT NUMBER: ACT/015/004

DATE OF INSPECTION: 6/27/96

13. REVEGETATION

In general the vegetation appeared in good condition. Cicer milkvetch was the visual dominant. The reclaimed sediment pond area which was seeded last fall appeared sparsely vegetated. Closer inspection revealed good seedling density. The pond area vegetation should thicken and mature given adequate precipitation this summer. A small area of thistle were noted on the upper road which should be sprayed with a herbicide.

14. SUBSIDENCE CONTROL

An annual walk over of the area was conducted August 11, 1995 by three employees from EIS. "No apparent subsidence or evidence of diminished flow to any of the springs" was noted.

21. BONDING & INSURANCE

Liability insurance is held by Indemnity Insurance Company of North America. The amount of \$500,000 is in compliance with the regulations and is effective 1/1/96 to 1/1/99.

The bond is in the amount of \$46,734 and is held by United Pacific Insurance. This bond rider reduction was effective 1/31/96.

Copy of this Report:

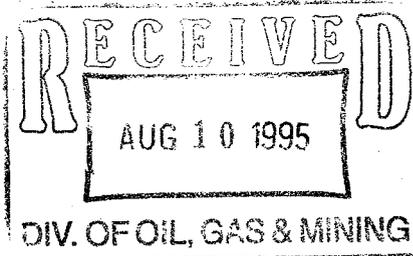
Mailed to: OSM, Paige Beville(MCC), Dan Guy (Black Hawk)

Given to: Joe Helfrich (DOGM)

Inspector's Signature: *Susan M. White* #35 Date: 7/2/96

Mountain Coal Company
West Elk Mine
Post Office Box 591
Somerset, Colorado 81434
Telephone 303 929-5015

July 28, 1995



Ms. Pamela Grubaugh-Littig
Utah Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Copy Pam, Joe and Sharon
ACT/007/016 #7
ACT/015/004 #7

Dear Ms. Littig:

Enclosed please find Quarterly Discharge Monitoring Reports for Mountain Coal Company's UPDES Permit Numbers UTG040004, UTG040005, UTG040014, and UTG040015. These reports cover the month of June, 1995.

This letter will also serve as a request to deactivate Permit Numbers UTG040014 and UTG040015 for the Gordon Creek 3/6 Mines and Huntington Canyon No. 4 Mine, respectively. The Gordon Creek No. 3/6 Mine has been granted Phase II Bond Release by the Utah Division of Oil Gas and Mining, and although the ponds will remain, they will be used strictly for stock and wildlife watering and no longer used as sediment control. The Huntington Canyon No. 4 Mine has also been granted Phase II Bond Release contingent upon removal of the ponds. The ponds are expected to be totally removed by the end of August. Mr. Steve McNeil of the Utah Division of Water Quality suggested this request be made with the submittal of the June 1995 reports.

9.6
6
Hunt #4

If you have any questions or need any additional information, please contact me.

Respectfully,

Dan W. Guy for
Paige B. Beville, MCC

6/24
Copy Sharon
FBI
for Phase II Bond
Release info.

Enclosures

cc: Donna Franklin, E.P.A.
Donald Hilden, D.E.Q.
Paige B. Beville, Mountain Coal Co.
File

ok
Pam
Done

From: Paul Baker
To: NRDOMAIN.NROGM(MWright, PGRUBAUG), LBRAXTON
Date: 9/3/96 7:27am
Subject: Less than 10-year bond liability for reclaimed sedimentation pond areas. -Forwarded
-Reply

Susan and I have exchanged E-Mails about the Federal Register notices, and we believe it's pretty clear we do not need to initiate rulemaking. We think OSM's new interpretations of the existing rules are pretty clear that seeding reclaimed sediment pond areas is not an augmentative practice.

CC: SWhite

From: Paul Baker
To: SWHITE
Date: 8/27/96 1:10pm
Subject: Pond Revegetation

My interpretation of the FR notice on the Colorado rule proposal is that the policy on revegetation of sediment ponds is in place. I don't think we need to do anything. My impression is that the reclaimed pond area has to meet all the standards except the 10-year period. I don't think we need a separate rule for that when we have an interpretation like they gave us.

The file I've attached has the portion that I think is so clear.

CC: PGrubaug

From: Paul Baker
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Date: 8/27/96 1:10pm
Subject: Pond Revegetation

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The file I've attached has the portion that I think is so clear.

CC: PGrubaug

In the absence of any indication of Congressional intent in the legislative history, OSM interprets this requirement as applying to the increment or permit area as a whole, not individually to those lands within the permit area upon which revegetation is delayed solely because of their use in support of the reclamation effort on the planted area. As implied in the preamble discussion of 30 CFR 816.46(b)(5), which prohibits the removal of ponds or other siltation structures until 2 years after the last augmented seeding, planting of the sites from which such structures are removed need not itself be considered an augmented seeding necessitating an extended or separate liability period (48 FR 44038-44039, September 26, 1983).

The purpose of the revegetation responsibility period is to ensure that the mined area has been reclaimed to a condition capable of supporting the desired permanent vegetation. Achievement of this purpose will not be adversely affected by this interpretation of section 515(b)(20) of SMCRA since (1) the lands involved are small in size and widely dispersed and (2) the delay in establishing revegetation on these sites is due not to reclamation deficiencies or the facilitation of mining, but rather to the regulatory requirement that ponds and diversions be retained and maintained to control runoff from the planted area until the revegetation is sufficiently established to render such structures unnecessary for the protection of water quality.

Direct support for this proposed exception from statutory responsibility period standards can be found in the fact that, on May 16, 1983, OSM promulgated 30 CFR 816.22(a)(3) and 817.22(a)(3), which, in analogous fashion, provide limited exceptions to the requirement in section 515(b)(5) of SMCRA that the operator remove and save topsoil from all lands to be affected by mining activities. In addition, it may reasonably be argued that the areas from which ponds are removed are likely to be no larger than those areas reseeded or replanted pursuant to normal husbandry practices, for which the Federal regulations do not require restarting of the revegetation responsibility period.

However, nothing in this interpretation of section 515(b)(20) of SMCRA shall be construed as exempting such lands from meeting the revegetation requirements of section 515(b)(19) of SMCRA prior to final bond release. As required by 30 CFR 816.46(b)(6), when siltation structures are removed, the land on which they were located must be regraded and revegetated in accordance with the reclamation plan and the requirements of 30 CFR 816.111 through 816.116, with the exception of 30 CFR 816.116(c), which requires a period of extended responsibility for successful revegetation on reclaimed areas (September 15, 1993, 58 FR 48333).

the minimum sample size requirements. Several parameters identified in Table 41 of the application do not meet minimum sample size requirements. The Division must deny Phase III Bond Release and require an additional two years of sampling unless this issue is resolved.

Table 35 of the vegetation study has missing numbers.

61 FR 26792, May 29, 1996

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement
30 CFR Part 906

[SPATS No. CO-029-FOR]
Colorado Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the Colorado regulatory program (hereinafter referred to as the "Colorado program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Colorado proposed revisions to and additions of rules pertaining to Colorado's responsibility as regulatory authority for regulating surface coal mining and reclamation operations and coal exploration; definitions; commercial use or sale of coal extracted during coal exploration; public availability of information; right of entry and operation information; public notice and comment on permit applications; procedures for review of permit applications; criteria for permit approval or denial; permit conditions; permit revisions; allowance of self-bonds; terms and conditions for self-bonds; criteria and schedule for release of performance bonds; termination of jurisdiction; performance standards for signs and markers, haul and access roads, effluent standards for discharges

[[Page 26793]]

of water from areas disturbed by surface coal mining and reclamation operations, blasting, and coal mine waste returned to underground mine workings; inspection frequency at abandoned sites; inspections based upon citizen requests; enforcement actions at abandoned sites; and show cause orders and patterns of violations involving violations of water quality effluent standards. The amendment was intended to revise the Colorado program to be consistent with the corresponding Federal regulations, incorporate the additional flexibility afforded by the revised Federal regulations, and improve operational efficiency.

EFFECTIVE DATE: May 29, 1996.

FOR FURTHER INFORMATION CONTACT:
James F. Fulton, Telephone: (303) 672-5524.
SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, Federal Register (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.15, 906.16, and 906.30.

II. Proposed Amendment

By letter dated November 20, 1995, Colorado submitted a proposed amendment to its program (administrative record No. CO-675) pursuant to SMCRA (30 U.S.C. 1201 et seq.). Colorado submitted the proposed amendment at its own initiative; in partial response to May 7, 1986, and March 22, 1990, letters (administrative record No. CO-282 and CO-496) that OSM sent to Colorado in accordance with 30 CFR 732.17(c); and in response to the requirement that Colorado amend its program at 30 CFR 906.16(a).

OSM announced receipt of the proposed amendment in the December 7, 1995, Federal Register (60 FR 62789), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. CO-675-2). Because no one requested a public hearing or meeting, none was held. The public comment period ended on January 8, 1996.

During its review of the amendment, OSM identified apparent typographical errors and a concern relating to the regulatory authority's discretionary acceptance of self bonds. OSM notified Colorado of the typographical errors and concern by letter dated January 25, 1996 (administrative record No. CO-675-8). Colorado responded in a letter dated February 16, 1996, by submitting a revised amendment (administrative record No. CO-675-9).

Based upon the revisions to the proposed program amendment submitted by Colorado, OSM reopened the public comment period in the March 5, 1996, Federal Register (61 FR 8534; administrative record No. CO-675-10). The public comment period ended on March 20, 1996.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Colorado on November 20, 1995, is no less effective than the corresponding Federal regulations. Accordingly, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to Colorado's Rules

Colorado proposed revisions to the following previously-approved rules that are nonsubstantive in nature and consist of minor editorial changes (corresponding Federal

regulation provisions are listed in parentheses):

Rule 2.07.3(3)(a)(iii) (30 CFR 773.13(a)(2)), concerning the content of Colorado's written notice upon receipt of applications, to replace the word "submitted" with the word "inspected;"

Rule 2.07.7(1) (30 CFR 773.17), concerning permit conditions, to add "[t]he" prior to "permittee;"

Rule 2.08.6(2)(b)(iii) (30 CFR 774.17(b)(iii)), concerning transfer, assignment, or sale of permit rights, to delete an extraneous ";or" at the end of the subsection; and

Rule 4.08.4(10) (30 CFR 816.67(d)(2)(i)), concerning the table showing the allowed maximum peak particle velocity in blasting operations, by replacing the signature for footnotes "1" and "2" with the symbol "< dagger >."

Because the proposed revisions to these previously-approved Colorado rules are nonsubstantive in nature, the Director finds that they are no less effective than the Federal regulations. The Director approves these proposed rules.

2. Substantive Revisions to Colorado's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

Colorado proposed revisions to the following rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulation provisions (listed in parentheses).

Rule 1.04(1) (30 CFR 840.11(g) and 842.11(e)), concerning the definition of "Abandoned site;"

Rules 1.04 (31a), (31b), (47a), (71a) (76), (83b), (116) and (135a) (30 CFR 800.23(a)), concerning the respective definitions of "Current liabilities," "Fixed assets," "Liabilities," "Net worth," "Parent corporation," "Self-bond," and "Tangible net worth;"

Rule 1.04(92) (30 CFR 700.5), concerning the definition of "Person;"

Rule 2.02.7 (30 CFR 772.14), concerning the commercial use and sale of coal from exploration operations;

Rule 2.07.6(2) (30 CFR 773.15(c)), concerning findings that the State regulatory authority must make prior to approval of applications for permits and permit revisions;

Rules 2.07.7 (6), (7), and (8) (30 CFR 773.17 (a), (b), and (c)), concerning permit conditions;

Rule 2.08.6(4)(a) (30 CFR 774.17(d)(1)), concerning approval of transfer, assignment, or sale of permit rights;

Rules 3.02.4(1)(c) and 3.02.4(2)(e) (30 CFR 800.23 (b) through (f)), concerning the allowance of self-bonding and the conditions for approval of self-bonds;

Rules 3.03.3 (1) and (2) (30 CFR 700.11(d) (1) and (2)), concerning termination of jurisdiction;

Rule 4.11.3 (30 CFR 816.81(f)), concerning return of coal mine waste to underground mine workings;

Rule 5.02.2(4)(b) (30 CFR 840.11(f)(2)), concerning when the State regulatory

authority can consider an operation an inactive surface coal mining and reclamation operation; and

Rules 5.03.2(1)(e) and 5.03.2(2)(h) (30 CFR 843.22), concerning enforcement procedures at abandoned sites;

Because these proposed Colorado rules are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective than the Federal regulations. The Director approves these proposed rules.

3. Rules 1.03.1(1)(a), 2.03.3(8), 2.07.3(2), 2.07.3(2) (e) and (f), 2.07.3(3)(a), 2.07.3(4)(a), 2.07.4(2), and 2.07.4(3) (b) and (c), Permit Applications, Public Notice Requirements, Permit Review and Decision, and Bonding Requirements Prior to Permit Issuance

a. Rules 1.03.1(1)(a), 2.07.3(2), 2.07.3(3)(a), 2.07.3(4)(a), and 2.07.4(2), Clarification of which permitting procedures apply to technical revisions, permit revisions, permits, or renewals of existing permits. Colorado proposed to revise Rules 1.03.1(1)(a), 2.07.3(2), 2.07.3(3)(a), 2.07.3(4)(a), and 2.07.4(2), concerning requirements for (1) the applicant's submission of applications,

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(2) the applicant's and Colorado's responsibility for public notice, and (3) Colorado's review of and decisions on applications, to clarify which rules apply to technical revisions, permit revisions, new permits, or renewals of existing permits. The requirements of these rules have not otherwise been revised.

The respective counterpart Federal regulations at 30 CFR 701.4(a), 30 CFR 773.13(a)(1), 30 CFR 773.13(a)(3), and 30 CFR 773.15(a)(1) set forth the requirements concerning application submittal, public notice, and the regulatory authority's responsibility for review and decision for minor revisions, significant permit revisions, permits, and permit renewals.

Colorado's requirements for technical revisions correspond to the Federal requirements for minor revisions; Colorado's requirements for permits and permit revisions correspond to the Federal requirements for permits and significant permit revisions. Proposed Rules 1.03.1(1)(a), 2.07.3(2), 2.07.3(3)(a), 2.07.3(4)(a), and 2.07.4(2) clarify the scope of existing requirements in a manner that is consistent with and no less effective than the respective counterpart Federal regulations at 30 CFR 701.4(a), 30 CFR 773.13(a)(1), 30 CFR 773.13(a)(3), 30 CFR 773.15(a)(1). Therefore, the Director approves proposed Rules 1.03.1(1)(a), 2.07.3(2), 2.07.3(3)(a), 2.07.3(4)(a), and 2.07.4(2).

b. Rule 2.03.3(8), number of applications required to be submitted to the regulatory authority. Colorado proposed to revise Rule 2.03.3(8) to require that three, rather than five, copies of a permit application with original signatures be submitted to the State.

The Federal regulations at 30 CFR 740.13(b)(2) state that, unless specified otherwise by the regulatory authority, seven copies of the complete permit application

package shall be filed with the regulatory authority.

Because Colorado has elected to specify the number of applications that must be submitted, Colorado's proposed Rule 2.03.3(8) is consistent with and no less effective than the Federal regulations at 30 CFR 740.13(b)(2). Therefore, the Director approves proposed Rule 2.03.3(8).

c. Rules 2.07.3(2) (e) and (f), Contents of public notices for operations affecting public roads. Colorado proposed to revise Rules 2.07.3(2) (e) and (f), concerning contents of public notices for operations in which the applicant proposes, respectively, (1) that affected areas would be within 100 feet, measured horizontally, of a public road and (2) to close or relocate a public road. Colorado proposed to add to Rules 2.07.3(2) (e) and (f) the requirement that the published notices include--

A statement indicating that a public hearing in the locality of the proposed mining operation for the purpose of determining whether the interests of the public and affected landowners will be protected may be requested by contacting the Division in writing within 30 days after the last publication of the notice.

The Federal regulations at 30 CFR 773.13(a)(1)(v) require that an applicant (for a permit, significant revision of a permit, or renewal of a permit), if seeking a permit to mine within 100 feet, measured horizontally, of the outside right-of-way of a public road or to relocate or close a public road, must place an advertisement in a local newspaper a concise statement describing the public road, the particular part to be relocated or closed, and the approximate timing and duration of the relocation or closing. The Federal regulations at 30 CFR 761.12(d)(2) require, in such cases, that the regulatory authority or public road authority designated by the regulatory authority shall provide an opportunity for a public hearing in the locality of the proposed mining operation for the purpose of determining whether the interests of the public and affected landowners will be protected.

The requirement that the applicant include in its public notice for a permit application the opportunity for a public hearing on the affect of mining on public roads, which Colorado proposes to add at Rules 2.07.3(2) (e) and (f), is consistent with and no less effective than the requirements in the Federal regulations at 30 CFR 773.13(a)(1) (v) and 761.12(d)(2). Therefore, the Director approves proposed Rules 2.07.3(2) (e) and (f).

d. Rules 2.07.4(3) (b) and (c), the requirement for performance bond approval prior to permit issuance. Colorado proposed to revise Rules 2.07.4(3) (b) and (c), concerning its decision on a permit application and the opportunity for public hearing, to clarify that no permit shall be issued until a performance bond has been submitted and approved.

The Federal regulations at (1) 30 CFR 773.15(d) require the regulatory authority, if it decides to approve a permit application, to require that the applicant file the performance bond or provide other equivalent guarantee before the permit is issued and (2) 30 CFR 800.11 (a) and (c) require that after a permit application is approved, but before any new area is disturbed, that the applicant submit and the regulatory authority approve the required performance bond.

The requirement proposed by Colorado at Rules 2.07.4(3) (b) and (c), that no

approved permit shall be issued until a performance bond has been submitted and approved, is no less effective than the requirements of the Federal regulations at 30 CFR 773.15(d) and 800.11 (a) and (c). Therefore, the Director approves proposed Rules 2.07.4(3) (b) and (c).

4. Rule 1.04(89), Definition of "Permit area"

Colorado proposed to revise the definition of "Permit area" at Rule 1.04(89) to (1) include the requirement that "the permit area be identified through a complete and detailed legal description, as required by Rule 2.03.6," and (2) delete the requirement that the area "shall be readily identifiable by appropriate markers on the site." Colorado stated that Rule 4.02.3 requires that only the perimeter of all areas affected by surface operations or facilities be identified by markers on site, and does not pertain to the extent of underground operations.

The Federal definition of "Permit area" at 30 CFR 701.5 does not include the requirement for a legal description. The requirement in Colorado's proposed definition of "Permit area" for identification by legal description would ensure the identification of the extent of both surface and underground coal mining and reclamation operations.

Therefore, the Director finds that Colorado's proposed definition of "Permit area" at Rule 1.04(89) is consistent with and no less effective than the Federal definition of "Permit area" at 30 CFR 701.5. The Director approves proposed Rule 1.04(89).

5. Rule 2.03.4(10), Permit Application Requirements Concerning Identification of Interests and Compliance Information

Colorado proposes, at Rule 2.03.4(10), to delete the requirement for "a form approved by the Board" on which an applicant would submit information required by 2.03.4 and by 2.03.5 (identification of interests and compliance information). The requirement that the required information be submitted in the permit application is otherwise unaltered.

The Federal regulation at 30 CFR 778.13(j) requires that information concerning identification of interests be submitted in any prescribed OSM format that is issued. The OSM format would be applicable only where OSM is the regulatory authority (RA). There is no requirement in the Federal regulation for a State RA to design a format.

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Therefore, Colorado's proposed deletion of a required format for information at Rule 2.03.4(10) is no less effective than the Federal regulation at 30 CFR 778.13(j). The Director approves proposed Rule 2.03.4(10).

6. Rule 2.03.6(1), Contents of Permit Applications Pertaining to an Applicant's Legal Right to Enter a Proposed Permit Area

Proposed Rule 2.03.6(1), concerning the contents of permit applications pertaining to an applicant's legal right to enter a proposed permit area, is, with one exception,

substantively identical to the Federal regulation at 30 CFR 778.15(a).

The exception is that Colorado proposed to add the requirement for the application to contain a "complete and detailed legal description of the proposed permit boundary." The Federal regulation at 30 CFR 778.15(a) does not include this requirement. However, Colorado's inclusion of the requirement for a legal description of the proposed permit boundary to which the applicant has the legal right to enter adds specificity and is not inconsistent with the Federal regulation at 30 CFR 778.15(a).

Therefore, the Director finds that proposed Rule 2.03.6(1) is no less effective than the Federal regulation at 30 CFR 778.15(a) and approves it.

7. Rule 2.07.5(2)(c), Notice and Hearing Procedures for Persons Seeking and Opposing Disclosure of Confidential Information

OSM required at 30 CFR 906.16(a) (56 FR 1371, January 14, 1991) that Colorado amend its program to provide for notice and hearing procedures for persons seeking and opposing disclosure of confidential information.

Colorado proposed a new Rule 2.07.5(2)(c) that states--

(I) Information requested to be held as confidential under 2.07.5(2) shall not be made publicly available until after notice and opportunity to be heard is afforded persons seeking disclosure and those persons opposing disclosure of information and such information is determined by the Board not to be confidential, proprietary information. Information for which disclosure is sought shall not be made available to those persons seeking disclosure prior to or during such opportunity to be heard. Such information shall not be made available until a final decision is made by the Board allowing such disclosure.

The Federal regulations at 30 CFR 773.13(d)(3) require, in part, that the "regulatory authority shall provide procedures, including notice and opportunity to be heard for persons both seeking and opposing disclosure, to ensure confidentiality of qualified confidential information." There is no requirement in the Federal program that the procedures be submitted to OSM for review as a program amendment.

Because Colorado's proposed Rule 2.07.5(2)(c) provides for notice and opportunity to be heard for both parties seeking disclosure and opposing disclosure of information requested to be held confidential, the Director finds that Rule 2.07.5(2)(c) is no less effective than the 30 CFR 773.13(d)(3) and satisfies the requirement that Colorado amend its program at 30 CFR 906.16(a). Therefore, the Director approves proposed Rule 2.07.5(2)(c) and removes the requirement that Colorado amend its program at 30 CFR 906.16(a).

8. Rules 2.07.6(2)(d) and 2.07.6(2)(d)(iii)(E), Findings Which Must be Made by the State Regulatory Authority Prior to Approval of Applications for Permits and Permit Revisions

Colorado proposed to revise Rules 2.07.6(2)(d) and 2.07.6(2)(d)(iii)(E), concerning the findings which must be documented prior to approval of applications for permits or permit revisions, to clarify that the findings pertaining to lands unsuitable for mining

apply to the proposed "affected areas" rather than to the operations for mining coal within those affected areas. Colorado's definition of "affected area" at Rule 1.04(17) is no less effective than the definition of "affected area" in the Federal regulations at 30 CFR 701.5.

The Federal regulations at 30 CFR 773.15(c)(3) require findings documenting that the proposed permit area, subject to valid existing rights, is (1) not within an area under study or administrative proceedings under a petition to have an area designated as unsuitable for surface coal mining operations or (2) not within an area designated as unsuitable for mining.

Because the intent of the regulations governing lands unsuitable for mining is to ascertain whether reclamation is technologically and economically feasible, Colorado's proposed revision to clarify that the findings apply to the proposed affected areas rather than to the operations is consistent with the Federal regulations.

Therefore, the Director finds that proposed Rules 2.07.6(2)(d) and 2.07.6(2)(d)(iii)(E) are no less effective than the Federal regulations at 30 CFR 773.15(c)(3). The Director approves proposed Rules 2.07.6(2)(d) and 2.07.6(2)(d)(iii)(E).

9. Rule 2.07.6(2)(d)(iv), Public Notice and Opportunity for Public Hearing Regarding Proposed (1) Operations Located Within 100 Feet of a Public Road or (2) Operations Which Require Closure or Relocation of a Public Road

Colorado proposed to revise Rule 2.07.6(2)(d)(iv) by adding the option for an appropriate public road authority to conduct required hearings and make findings regarding proposed: (1) Operations located within 100 feet, measured horizontally, of a public road or (2) operations which propose to close or relocate a public road. The revisions clarify that it is the responsibility of Colorado to designate a responsible authority, and that either may approve public road relocation, closure, or that the affected area may be within 100 feet of such road. However, the aforementioned may be done only after public notice and opportunity for a public hearing. Moreover, either must make a written finding stating that the interests of the affected public and landowners will be protected.

The Federal regulations at 30 CFR 761.11(d) provide for either the regulatory authority or the appropriate public road authority to provide for public notice and opportunity for a public hearing and to make written findings stating that the interests of the affected public and landowners will be protected.

Because proposed Rule 2.07.6(2)(d)(iv) provides for public notice, opportunity for public hearing, and requirements for written findings that may be implemented by an appropriate public road authority, the Director finds that proposed Rule 2.07.6(2)(d)(iv) is no less effective than the Federal regulations at 30 CFR 761.11(d). Therefore, the Director approves proposed Rule 2.07.6(2)(d)(iv).

10. Rule 2.07.7(9), Permit Condition Requiring Continuous Bond Coverage

Colorado proposed adding a permit condition at Rule 2.07.7(9) which requires continuous bond coverage but allows for adjustment of the bond amount from time to time to reflect changes in the cost of reclamation due to factors such as inflation and

market forces.

Proposed Rule 2.07.7(9) has no direct counterpart in the Federal regulations at 30 CFR 773.17 as a condition to a permit. However, the Federal regulations at (1) 30 CFR 773.17(a) require as a permit condition that the permittee conduct operations only on those lands that are subject to the performance bond in effect pursuant to Subchapter J and (2) 30 CFR 800.4(g)

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require that the regulatory authority require in the permit that adequate bond coverage be in effect at all times.

Because the permit condition at proposed Rule 2.07.7(9) contains provisions that are consistent with the requirements of the Federal regulations at 30 CFR 773.17(a) and 800.4(g), the Director finds that proposed Rule 2.07.7(9) is no less effective than these Federal regulations. The Director approves proposed Rule 2.07.7(9).

11. Rules 2.08.4 (1) Through (4), Revisions and Revision Application Requirements

With two exceptions, Colorado proposed revisions to Rules 2.08.4 (1) through (4), concerning revisions and revision application requirements, that are editorial in nature. The Federal regulation at 30 CFR 774.13(b)(2) requires that the regulatory authority establish (1) time periods with which it will act on applications for permit revisions and (2) the scale or extent of revisions for which all permit application information requirements and procedures shall apply. The proposed editorial revisions at Rules 2.08.4 (1) through (4) reorganize existing requirements (without altering the substance of the requirements) to more clearly delineate what types of changes in a proposed operation would require either a permit revision, a technical revision, or a minor revision. These editorial revisions are consistent with the corresponding Federal regulation at 30 CFR 774.13(b)(2).

The first exception is the proposed deletion of Rule 2.08.4(1)(c), which requires that the permittee submit a permit revision in order to continue liability insurance policy, capability of self-insurance, or performance bond, upon which the original permit was issued. OSM has no counterpart requirement to this State rule. The Colorado rule proposed for deletion is less effective than the Federal program in that it would allow an operation to be permitted without continuous bond coverage. The deletion of this rule is consistent with the requirements of the Federal regulations at 30 CFR 800.15 (a) through (d) which provide for adjustments in bond amounts, but which require continuous bond coverage.

The second exception is the proposed addition of Rule 2.08.4(1)(d), which requires a permit revision for any extensions to the area covered by a permit, except for incidental boundary revisions. The corresponding Federal regulation at 30 CFR 774.13(d) provides that any extension to the area covered by the permit, except for an incidental boundary revision, shall be made by application for a new permit. However, in Colorado's approved program, the procedural requirements of Rule 2.07 are the same for permit revisions and new permit applications. Furthermore, existing Rule 2.08.4(5)(d) requires for all types of permit revision applications such information as

may be necessary to determine if the proposed revision will comply with Colorado's approved program. In the "Statement of Basis, Specific statutory Authority, and Purpose" for its August 23, 1988, amendment (administrative record No. 384), Colorado stated that--

(f) or the Division to make the findings required by Rule 2.07.6(2), which applies to permit or (permit) revision applications,' it will be necessary for the permittee to submit adequate information pertaining to baseline, operations plan and reclamation plan. Additional information may be requested by the Division if not in sufficient detail pursuant to Rule 2.08.4(4)(d) (recodified as Rule 2.08.4(5)(d)).

OSM interprets this as meaning that all informational requirements applicable to new permits would also be applicable to permit revisions when they involve an extension of area to be covered by a permit other than an incidental boundary change.

Based on the above discussion, the Director finds that the revisions proposed at Rules 2.08.4 (1) through (4) are consistent with and no less effective than the Federal regulations at 30 CFR 774.13(b) (2) and (d) and 800.15 (a) through (d). The Director approves proposed Rules 2.08.4 (1) through (4).

12. Rules 2.08.4(6)(b) (i) and (ii), Public Hearing and Notice Requirements for Technical Revisions

Colorado proposed recodification of existing Rules 2.08.4 (4) and (5) as 2.08.4 (5) and (6). In addition, Colorado proposed: (1) revising Rule 2.08.4(6)(b)(i) to clarify that informal conference procedures do not apply to technical revisions, and (2) adding Rule 2.08.4(6)(b)(ii) to provide a 10-day public comment period for proposed technical revisions. Colorado's defines, at Rule 1.04(136), "Technical revisions" to mean--

A minor change, including incidental permit boundary revisions, to the terms or requirements of a permit issued under these rules, which change shall not cause a significant alteration in the operator's reclamation plan. The term includes, but is not limited to, increases in coal production, reduction or termination of approved environmental monitoring programs, or design changes for regulated structures or facilities.

The Federal regulation at 30 CFR 773.13(c) provides that any person may request an informal conference; however, this provision is applicable only to applications for permits, significant permit revisions, and permit renewals. There is no Federal provision applicable to technical revisions as defined in Colorado's program. Therefore, Colorado's clarification, at proposed Rule 2.08.4(6)(b)(i), that informal conference procedures do not apply to technical revisions is consistent with the Federal regulations at 30 CFR 773.13(c).

Technical revisions, as defined in Colorado's program, are not subject to the requirements in the Federal regulations at 30 CFR 774.13(b)(2) for notice, public participation, and notice of decision. These Federal requirements are applicable to applications for permits and significant permit revisions. Therefore, Colorado's

proposed allowance at Rule 2.08.4(6)(b)(ii) for a 10-day comment period on technical revisions provides for a greater degree of public participation than required by the Federal program.

Based on the above discussion, the Director finds that the revisions proposed at Rules 2.08.4(6)(b) (i) and (ii) are consistent with and no less effective than the Federal regulations at 30 CFR 773.13(c) and 774.13(b)(2). The Director approves proposed Rules 2.08.4(6)(b) (i) and (ii).

13. Rule 3.03.1(5), Release of Bond Coverage for Liability Associated With Temporary Drainage and Sediment Control Facilities

Colorado proposed to add Rule 3.03.1(5) which provides that--

(R)elease of bond coverage for liability associated with temporary drainage and sediment control facilities including impoundments and conveying systems shall be authorized only after final inspection, acceptance, and approval by the Division. Such approval shall be granted based on determination by the Division that backfilling and grading, topsoiling, and reseeded of such facilities have been completed in compliance with the approved plan. Vegetative cover must be adequate to control erosion and similar to the surrounding reclaimed area. Reclaimed temporary drainage control facilities shall not be subject to the extended liability period of 3.03.3(2) or the bond release criteria of 3.03.1(2).

a. OSM's policy concerning the term of liability for reclamation of temporary sediment control facilities. Section 515(b)(20) of SMCRA provides that the revegetation responsibility period shall commence "after the last year of augmented seeding, fertilizing, irrigation, or other work" needed to assure revegetation success. In the

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absence of any indication of Congressional intent in the legislative history, OSM interprets this requirement as applying to the increment or permit area as a whole, not individually to those lands within the permit area upon which revegetation is delayed solely because of their use in support of the reclamation effort on the planted area. As implied in the preamble discussion of 30 CFR 816.46(b)(5), which prohibits the removal of ponds or other siltation structures until 2 years after the last augmented seeding, planting of the sites from which such structures are removed need not itself be considered an augmented seeding necessitating an extended or separate liability period (48 FR 44038-44039, September 26, 1983).

The purpose of the revegetation responsibility period is to ensure that the mined area has been reclaimed to a condition capable of supporting the desired permanent vegetation. Achievement of this purpose will not be adversely affected by this interpretation of section 515(b)(20) of SMCRA since (1) the lands involved are small in size and widely dispersed and (2) the delay in establishing revegetation on these sites is due not to reclamation deficiencies or the facilitation of mining, but rather to the regulatory requirement that ponds and diversions be retained and maintained to control

runoff from the planted area until the revegetation is sufficiently established to render such structures unnecessary for the protection of water quality.

Direct support for this proposed exception from statutory responsibility period standards can be found in the fact that, on May 16, 1983, OSM promulgated 30 CFR 816.22(a)(3) and 817.22(a)(3), which, in analogous fashion, provide limited exceptions to the requirement in section 515(b)(5) of SMCRA that the operator remove and save topsoil from all lands to be affected by mining activities. In addition, it may reasonably be argued that the areas from which ponds are removed are likely to be no larger than those areas reseeded or replanted pursuant to normal husbandry practices, for which the Federal regulations do not require restarting of the revegetation responsibility period.

However, nothing in this interpretation of section 515(b)(20) of SMCRA shall be construed as exempting such lands from meeting the revegetation requirements of section 515(b)(19) of SMCRA prior to final bond release. As required by 30 CFR 816.46(b)(6), when siltation structures are removed, the land on which they were located must be regraded and revegetated in accordance with the reclamation plan and the requirements of 30 CFR 816.111 through 816.116, with the exception of 30 CFR 816.116(c), which requires a period of extended responsibility for successful revegetation on reclaimed areas (September 15, 1993, 58 FR 48333).

b. Comparison of Colorado's proposed Rule 3.03.1(5) with OSM's proposed policy clarification. Colorado proposed Rule 3.03.1(5) specifies that a bond release decision shall be based "on determination by the Division that backfilling and grading, topsoiling, and reseeded of such facilities has been completed in compliance with the approved [reclamation] plan." Vegetative cover must be adequate to control erosion and similar to the reclaimed area or surrounding undisturbed area. Because the reseeded must be found to be in compliance with the reclamation plan in the approved permit, Colorado has ensured that the vegetation of these reclaimed areas would be subject to (1) Colorado's counterparts to the Federal regulations at 30 CFR 816.111 and 817.111, and (2) those portions of Colorado's counterparts to the Federal regulations at 816.116 and 817.116 related to the attainment of the postmining land use (other than quantitative measurement techniques and liability periods).

Because Colorado's proposed Rule 3.03.1(5) also specifies that vegetative cover must be adequate to control erosion and similar to the reclaimed area or surrounding undisturbed area, the areas where the temporary sediment control structures had been located are expected to be similar to the remainder of the surrounding reclaimed or undisturbed area. This requirement would tend to discourage the removal of ponds or diversions toward the end of the liability period for the surrounding area. If removal of the structures occurs toward the end of the liability period for the larger reclaimed area, the areas where the ponds or diversions existed would not qualify for final bond release until reclamation has been established with some degree of permanence.

Based on the above discussion, the Director finds that Colorado's proposed Rule 3.03.1(5) is consistent with and no less effective than the Federal regulations at 30 CFR 817.46(b) (5) and (6) and sections 515(b) (19) and (20) of SMCRA, as clarified by OSM in the September 15, 1993, Federal Register (58 FR 48333).

14. Rules 4.02.2(2) (a) Through (c), Information Required on Identification Signs

Colorado proposed revising Rule 4.02.2(2)(a), concerning the required information on identification signs displayed at each point of access to the permit area from public roads, to recodify one existing provision as Rule 4.02.2(2)(b), and to add at Rule 4.02.2(2)(c) the requirement that such signs must include the name, address and telephone number of the office where the mining and reclamation permit is filed. With the exception of this added requirement, Rules 4.02.2(2) (a) through (c) are substantively identical to the Federal regulation at 30 CFR 816.11(c)(2).

Colorado's proposed inclusion of the requirement, that the name, address and telephone number of the office where the mining and reclamation permit is filed, provides for information on the mine identification sign that will facilitate the public's ability to participate in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by Colorado and is, therefore, not inconsistent with the Federal regulation at 30 CFR 816.11(c)(2).

Based on the above discussion, the Director finds that proposed Rules 4.02.2(2) (a) through (c) are no less effective than the Federal regulation at 30 CFR 816.11(c)(2). The Director approves Rules 4.02.2(2) (a) through (c).

15. Rules 4.03.1(d) (i) and (ii) and 4.03.2(f) (i) and (ii), Engineer's Certification of the construction or Reconstruction of Haul and Access Roads

Colorado proposes to revise Rules 4.03.1(d)(i) and 4.03.2(f)(i) to provide an exemption at Rules 4.03.1(d)(ii) and 4.03.2(f)(ii) from the requirement for an engineer's certification of the construction or reconstruction of haul and access roads that were completed prior to August 1, 1995, if the applicant provides a relevant showing, on a case-by-case basis, which may include monitoring data or other evidence, whether the road meets the performance standards of, respectively, Rules 4.03.1 or 4.03.2.

On August 1, 1995, Colorado promulgated the existing requirement at Rules 4.03.1(d)(i) and 4.03.2(f)(i) for certification of the design and construction of haul and access roads not within the disturbed area. Therefore, proposed Rules 4.03.1(d) (i) and (ii) and 4.03.2(f) (i) and (ii) provide the exemption from the certification only

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for those haul and access roads that existed prior to the promulgation of the requirement, i.e., only for existing structures.

The Federal regulations corresponding to Rules 4.03.1(1)(d) and 4.03.2(1)(f) are at 30 CFR 816.151(a) and 817.151(a). These regulations became effective on December 8, 1988 (53 FR 45190). Like the State rules, they require the certification of the "construction and reconstruction" of primary roads, which are analogous to Colorado's haul and access roads.

OSM has implemented these Federal regulations by requiring the certification of primary roads that were newly constructed or reconstructed on or after December 8, 1988. For a road that existed prior to December 8, 1988, and that an operator continued to use thereafter, OSM has not required a certification but is has required, in accordance with 30 CFR 780.12(a)(4) and 784.12(a)(4), that the operator show that the

road meets the performance standards of 30 CFR, Subchapter K. The applicable performance standards in Subchapter K. The applicable performance standards in Subchapter K are at 30 CFR 816.150(b), 816.151 (b) through (e), 817.150(b), and 817.151 (b) through (e).

Colorado's Rule 2.05.3(3)(b)(i)(D) is similar in its requirements to the Federal regulations at 30 CFR 780.12(a)(4) and 784.12(a)(4). This State rule requires for each existing structure (such as an existing road) a "[s]howing, including relevant monitoring data or other evidence, whether the structure meets the design requirements or performance standards of Rule 4." Colorado's exemption requires that the applicant show that the existing haul or access road that existed prior to August 1, 1995, meets the performance standards of Rule 4.03.2. Rule 4.03.2 contains all of the applicable performance standards that correspond to the Federal regulations at 30 CFR 816.150(b), 816.151 (b) through (e), 817.150(b), and 817.151 (b) through (e).

Based on the above discussion, the Director finds that proposed Rules 4.03.1(d) and 4.03.2(f) are consistent with and no less effective than the Federal regulations at 30 CFR 816.151(a) and 817.151(a), concerning roads, and 780.12(a)(4) and 784.12(a)(4), concerning existing structures. The Director approves proposed Rules 4.03.1(d) (i) and (ii) and 4.03.2(f) (i) and (ii).

16. Rules 4.05.2(7), 5.03.3(1)(a), 5.03.3(2)(a) (i) and (ii), and 5.03.3(20)(b), Compliance with the Effluent Limitations for Coal Mining Promulgated by the U.S. Environmental Protection Agency Set Forth in 40 CFR Part 434 and Enforcement Procedures Concerning Violations of Effluent Limitations

a. Rule 4.05.2(7), Compliance with effluent limitations for coal mining. Colorado proposed to revise Rule 4.05.2(7), concerning water quality standards and effluent limitations, by adding the requirement that the discharges of water from areas disturbed by surface coal mining and reclamation operations shall be made in compliance with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR part 434, as these rules existed on July 1, 1993.

This requirement is substantively identical to the Federal requirement at 30 CFR 816.42 and 817.42 with the exception that the Federal regulations refer to discharges of water from areas disturbed by "surface and underground mining activities" rather than areas disturbed by "surface coal mining and reclamation operations."

Colorado defines "surface coal mining and reclamation operations" at Rule 1.04(133) to mean surface coal mining operations and all activities necessary and incident to the reclamation of such operations. Colorado's Rule 1.04(132) defines "surface coal mining operations" to mean--

(a) activities conducted on the surface of lands in connection with a surface coal mine or activities subject to the requirements of Section 34-33-121 of the Act which involve surface operations and surface impacts incident to an underground coal mine. * * * and (b) the areas upon which such activities occur or where such activities disturb and natural land surface. Such areas shall also include an adjacent land the use of which is incidental to any such activities, * * *.

Section 34-33-121 of the Colorado Surface Coal Mining Reclamation Act provides

for the surface effects of underground coal mining and Rule 4 sets forth the minimum performance standards and design requirements to be used for surface coal mining and reclamation operations incident to underground mining activities. Colorado defines "underground mining activities" at Rule 1.04(144) to mean a combination of

(a) surface operations incident to underground extraction of coal or in situ processing, such as * * *; and (b) underground operations such as * * *, subject to review for surface and hydrologic impacts in accordance with Rules 2 and 4.

The Federal regulations at 30 CFR 701.5 define "surface mining activities" to mean those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam, before recovering the coal, by auger coal mining, or by the recovery of coal from a deposit that is not in its original geologic location. In addition, these Federal regulations define "underground mining activities" to mean a combination of (a) surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining are placed; and (b) underground operations such as underground construction, operation, and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting.

The term "underground mining activities" as defined at Colorado's Rule 1.04(144) is substantively identical to the counterpart Federal definition of the same term at 30 CFR 705.1, except Colorado requires that surface operations incident to underground extraction of coal or in situ processing and underground operations are subject to review for surface and hydrologic impacts in accordance with Rules 2 and 4.

Based upon the reference at Rule 1.04(132) to Colorado's Act and Rule 4, which in turn pertain to the surface effects of underground coal mining and underground mining activities, the use of the term "surface coal mining and reclamation operations" at Rule 4.05.2(7) is no less effective than the Federal regulations at 30 CFR 816.42 and 817.42 which pertain to surface mining activities and underground mining activities.

Therefore, based upon the above discussion the Director finds that Colorado's proposed Rule 4.05.2(7) is consistent with and no less effective than the Federal regulations at 30 CFR 816.42 and 817.42 pertaining to water quality standards and effluent limitations. The Director approves proposed Rule 4.05.2(7).

b. Rules 5.03.3(1)(a) and 5.03.3(2)(1)(1), (2)(a)(ii), and (2)(b), Enforcement procedures concerning violations of effluent limitations. Colorado proposed to revise Rule

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5.03(1)(a), concerning show cause orders, and Rules 5.03.3(2)(a) (i) and (ii) and 5.03.3(2)(b), concerning patterns of violations, to add new language providing that--

Notices of violation issued by the Water Quality Control Division which cite a one day exceedance of the water quality effluent standards referenced in 4.05.22 shall be included by the Division in determining whether a pattern of violations exists.

The Federal regulations at 30 CFR 843.13(a)(1), (2), and (3) which are the Federal counterpart provisions for orders to show cause when it is determined that a pattern of violations exists or has existed, do not contain a separate requirements that notices of violations of the water quality effluent standards shall be considered by the Director in determining whether a pattern of violations exists. However, these same Federal regulations do not exclude violations of water quality effluent limitations from the violations reviewed to determine whether a pattern of violations exists or has existed. In addition, section 521(d) of SMCRA provides that

(a) as a condition of approval of any State program submitted pursuant to section 503 of this Act, the enforcement provisions thereof shall, at a minimum, incorporate sanctions no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto. Nothing herein shall be construed so as to eliminate any additional enforcement rights or procedures which are available under State law to a State regulatory authority by which are not specifically enumerated herein.

Colorado's proposed Rules 5.03.3(1)(a), 5.03.3(2)(a), (i) and (ii), and 5.03.3(2)(b) provide for enforcement procedures that are not specified in the Federal regulations at 30 CFR 843.12(a) (1), (2), and (3). However, the enforcement procedures are consistent with these Federal regulations and with section 521(d) of SMCRA.

Therefore, the Director finds that proposed Rules 5.03.3(1)(a), 5.03.3(2)(a) (i) and (ii), and 5.03.3(2)(b) are no less stringent than section 521(d) of SMCRA and no less effective than the Federal regulations at 30 CFR 843.13(a) (1), (2) and (3). The Director approves proposed Rules 5.03.3(1)(a), 5.03.3(2)(a) (i) and (ii), and 5.03.3(2)(b).

17. Rule 4.08.3(2)(b)(i), Blasting Areas

Colorado proposed to revise Rule 4.08.3(2)(b)(i), concerning blasting areas identified in the blasting schedule, by deleting the requirement for specific approval of a blasting area in excess of 300 acres.

The Federal regulations at 30 CFR 864.64(a)(1) do not place limits on blasting areas, but allow the regulatory authority to limit the area covered, timing, and sequence of blasting as listed in the schedule, if such limitations are necessary and reasonable in order to protect the public health and safety or welfare. With the deletion of the requirement for approval of a blasting area in excess of 300 acres, Colorado's proposed Rule 4.08.3(2)(b)(i) is substantively identical to the requirement in the Federal regulations at 30 CFR 816.64(c)(2) which requires that the blasting schedule shall contain identification of the specific areas in which blasting will take place.

Therefore, the Director finds that (1) Colorado's proposed deletion of the requirement for approval of a blasting area in excess of 300 acres from Rule 4.08.3(2)(b)(i) is consistent with and no less effective than the Federal regulations at 30

CFR 864.64(a) (1) and (2) proposed Rule 4.08.3(2)(b)(i) is no less effective than the Federal regulations at 30 CFR 816.64(c)(2). The Director approves proposed Rule 4.08.3(2)(b)(i).

18. Rules 5.02.5(1), 5.02.5(1)(a), and 5.02.5(1)(b)(i), Inspections Based Upon a Citizens' Requests

a. Rule 5.02.5 (1) and (1)(a), A person's right to request and inspection and Colorado's response time to a person's request for an inspection. Colorado proposed to revise Rule 5.02.5(1) to provide that any person who believes there is a violation of Colorado's approved program or permit conditions, or that any imminent danger or harm exists, may request an inspection for violations. Colorado proposed to revise Rule 5.02.5(1)(a) to add the provision that the State will conduct such an inspection within 10 days of receipt of a written request, but that if the request gives Colorado sufficient basis to believe that imminent danger or harm exists, the inspection shall be conducted no later than the next day, following the receipt of such a request.

The Federal regulation at 30 CFR 840.11(b)(1)(i) provides that OSM shall immediately conduct a Federal inspection when it has reason to believe on the basis of information available (other than information resulting from a previous Federal inspection) that there exists a violation of the Federal program, permit condition, or that there exists any condition, practice, or violation which creates an imminent danger to the health or safety of the public or is causing or could reasonably be expected to cause a significant, imminent environmental harm to land, air, or water resources.

Colorado's proposed Rule 5.02.5 (1) and (1)(a) differ from the Federal regulation at 30 CFR 840.11(b)(1)(i) in that they distinguish between those citizen's requests that provide sufficient basis to believe that imminent danger or harm exists and those that do not. Colorado has, in effect, defined in its proposed rules the term "immediately" which is not defined in the Federal program, nor is it discussed in the preamble to the Federal regulations. The Federal regulations at 30 CFR 840.11(b)(1) do not make a distinction in response time between whether or not a citizen's request provides sufficient reason to believe that imminent danger or harm exists.

However, Colorado's proposal to determine the response time to a citizen's request for an inspection, based on whether there is reason to believe there exists imminent harm or danger, is a reasonable interpretation of the Federal regulations and one that would not result in a response or an inspection that would be less effective than the one required in the Federal regulations. Therefore, the Director finds that Colorado's proposed Rules 5.02.5 (1) and (1)(a) are consistent with and no less effective than the Federal regulation at 30 CFR 840.11(b)(1)(i). The Director approves proposed Rule 5.02.5 (1) and (1)(a).

b. Rule 5.02.5(1)(b) (i) and (ii), When a citizen's request for inspection gives sufficient reason to believe that there is cause for an inspection. Colorado proposed to revise Rule 5.02.5(1)(b), which defines when it will have sufficient basis to believe there is cause for an inspection requested by a citizen, by replacing the word "and" with the word "or" between paragraphs (i) and (ii), so that these proposed rules define the "sufficient basis to believe" exists when

(i) (T)he request alleges facts that, if true, would constitute any of the above-described violations; or

(ii) (T)he request either states the basis upon which the facts are known by the requesting citizen or provides other corroborating evidence sufficient to give the Division a basis to believe that the violation has occurred.

The corresponding Federal regulation at 30 CFR 842.11(b)(2) states that an authorized representative shall have reason to believe that a violation, condition or practice exists if the facts alleged by the informant would, if true, constitute a condition, practice or violation referred to in 30 CFR 842.11 (b)(1)(i).

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Colorado's existing Rule 5.02.5(1)(b)(i) is substantially identical to the Federal regulation at 30 CFR 842.11(b)(2). Existing Rule 5.02.5(1)(b)(ii) provides a more stringent condition than does Colorado's Rule 5.02.5(1)(b) (i) and the Federal regulation at 30 CFR 842.11(b)(2). However, proposed Rules 5.02.5(1)(b) (i) and (ii) no longer require that a citizen's request for an inspection meet the criterium of Rule 5.02.5(1)(b)(ii), but provide that the criterium at Rule 5.02.5(1)(b)(ii) is optional.

Therefore, the Director finds that Colorado's proposed Rules 5.02.5(1)(b) (i) and (ii) are no less effective than the Federal regulation at 30 CFR 842.11(b)(2) in responding to a citizen's complaint. The Director approves proposed Rules 5.02.5(1) (b) (i) and (ii). 19. Rules 5.02.2(8) (a) Through (c), Inspection Frequency at Abandoned Sites; and Rule 5.03.2(3), Enforcement Procedures at Abandoned Sites

a. Rules 5.02.2(8) (a) through (c), Inspection frequency at abandoned sites. Colorado proposed adding Rules 5.02.2(8) (a), (b), and (c), to identify the criteria and requirements for public notice that must be implemented for determining the inspection frequency of abandoned sites.

Proposed Rules 5.02.2(8)(a), (b), and (c) are, with one exception, substantively identical to the Federal regulations at 30 CFR 840.11(h) (1) and (2). The exception is proposed Rule 5.02.2(8)(c), which states that--

(T)he Division shall implement a final inspection frequency based on its findings and any additional information received during the comment period."

Proposed Rule 5.02.2(8)(c) has no counterpart in the Federal program. This is a declarative statement of the duties of the regulatory authority and does not alter the substance of the requirements concerning the criteria and the requirements for public notice that must be used when determining the inspection frequency of abandoned sites.

Therefore, based on the above discussion, the Director finds that proposed Rules 5.02.2(8) (a) through (c) are no less effective than the respective Federal regulations at 30 CFR 840.11(h) (1) and (2). The Director approves proposed Rules 5.02.2(8) (a) through (c).

b. Rule 5.03.2(3), Enforcement procedures at abandoned sites. Colorado proposed revising Rule 5.03.2(3), concerning notices of violation and subsequent failure-to-abate cessation orders (FTACO), by adding the statement that Colorado--

May refrain from issuing a failure-to-abate cessation order for such failure to abate a violation or failure to accomplish an interim step, if the operation is an abandoned site as defined in 1.04(1).

Existing Rule 5.03.2(3) is substantively identical to 30 CFR 843.11(b)(1). However, there is no provision at 30 CFR 843.11(b)(1) concerning enforcement of notices of violation at abandoned sites. The Federal regulations at 30 CFR 843.22 provide that a cessation order need not be issued at an abandoned site if abatement of the violation is required under any previously issued notice or order. Colorado's proposed allowance at Rule 5.03.2(3) to refrain from issuing an FTACO if the site qualifies as an abandoned site would apply only when abatement of the violation is already required under a previously issued notice of violation.

Therefore, based on the above discussion, the Director finds that proposed Rule 5.03.2(3) is no less effective than 30 CFR 843.22. The Director approves proposed Rule 5.03.2(3).

IV. Summary and Disposition of Comments

Following are summaries of all substantive oral and written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Colorado program.

The U.S. Forest Service responded on December 15, 1995, and March 26, 1996, that it had no comments on the proposed amendment (administrative record Nos. CO-675-3 and CO-675-13).

The U.S. Natural Resources Conservation Service responded on December 20 and 21, 1995, that it had no comments on the proposed amendment (administrative record No. CO-675-4).

The U.S. Army Corps of Engineers responded on December 27, 1995, that it had found the proposed amendment to be satisfactory (administrative record No. CO-675-5).

The U.S. Mine Safety and Health Administration (MSHA) responded on December 27, 1995, and March 20, 1996, that the proposed amendment did not conflict with MSHA standards (administrative record Nos. CO-675-7 and CO-675-12).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.).

OSM solicited EPA's concurrence with the proposed amendment (administrative record CO-675-1). On April 10, 1996, EPA gave its written concurrence and stated that

it had no comments on the proposed revisions (administration record No. CO-675-14).
4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. CO-675-1). Neither the SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves Colorado's proposed amendment as submitted on November 20, 1995, and revised on February 16, 1996, and removes the requires amendment at 30 CFR 906.16(a).

The Director approves, as discussed in:

Finding No. 1, Rule 2.07.3(a)(iii), Rule 2.07.7(1), Rule 2.08.6(2)(b)(iii), and Rule 4.08.4(10), concerning nonsubstantive revisions to previously approved rules that consist of editorial revisions;

Finding No. 2, Rules 1.04(1), 1.04 (31a), (31b), (47a), (71a), (76), (83b), (92), (116), and (135a); Rule 2.02.7; Rule 2.07.6(2); Rules 2.07.7 (6), (7), and (8); Rule 2.08.6(4)(a); Rules 3.02.4(1)(c) and 3.02.4(2)(e); Rules 3.03.3 (1) and (2); Rule 4.11.3; Rule 5.02.2(4)(b); and Rules 5.03.2(1)(e) and 5.03.2(2)(h); concerning substantive revisions to previously approved rules that are substantively identical to the Federal regulations;

Finding No. 3, Rules 1.03.1(1)(a), 2.03.3(8), 2.07.3(2), 2.07.3(2) (e) and (f), 2.07.3(3)(a), 2.07.3(4)(a), 2.07.4(2), and 2.07.4(3) (b) and (c), concerning permit applications, public notice requirements, permit review and decision, and bonding requirements prior to permit issuance;

Finding No. 4, Rule 1.04(89), concerning the definition of "Permit area;"

Finding No. 5, Rule 2.03.4(10), concerning permit application requirements concerning identification of interests and compliance information;

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Finding No. 6, Rule 2.03.6(1), concerning contents of permit applications pertaining to an applicant's legal right to enter a proposed permit area;

Finding No. 7, Rule 2.07.5(2)(c), concerning notice and hearing procedures for persons seeking and opposing disclosure of confidential information;

Finding No. 8, Rules 2.07.6(2)(d) and 2.07.6(2)(d)(iii)(E), concerning findings which must be made by the State regulatory authority prior to approval of applications for permits and permit revisions;

Finding No. 9, Rule 2.07.6(2)(d)(iv), concerning public notice and opportunity for public hearing regarding proposed (1) operations located within 100 feet, measured horizontally, of a public road or (2) operations which require closure or relocation of a public road;

Finding No. 10, Rule 2.07.7(9), concerning permit conditions requiring continuous bond coverage;

Finding No. 11, Rules 2.08.4 (1) through (4), concerning permit revisions and permit revision application requirements;

Finding No. 12, Rules 2.08.4(6)(b) (i) and (ii), concerning public hearing and notice

requirements for technical revisions;

Finding No. 13, Rule 3.03.1(5), concerning release of bond coverage for liability associated with temporary drainage and sediment control facilities;

Finding No. 14, Rules 4.02.2(2) (a) through (c), concerning information required on identification signs;

Finding No. 15, Rules 4.03.1(d) (i) and (ii) and 4.03.2(f) (i) and (ii), concerning an engineer's certification of the construction or reconstruction of haul and access road;

Finding No. 16, Rules 4.05.2(7), 5.03.3(1)(a), 5.03.3(2)(a) (i) and (ii), and 5.03.3(2)(b), concerning (1) compliance with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR part 434 and (2) enforcement procedures concerning violations of effluent limitations;

Finding No. 17, Rule 4.08.3(2)(b)(i), concerning blasting areas;

Finding No. 18, Rules 5.02.5(1), 5.02.5(1)(a), and 5.02.5(1)(b)(i), concerning inspections based upon citizens' requests; and

Finding No. 19, Rules 5.02.2(8) (a) through (c), concerning inspection frequency at abandoned sites, and Rule 5.03.2(3), concerning enforcement procedures at abandoned sites.

The Federal regulations at 30 CFR part 906, codifying decisions concerning the Colorado program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of Tribe or State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribe or State AMLR plans and revisions thereof submitted by a Tribe or State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231-1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions

on proposed Tribe or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The Tribe or State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the Tribe or State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

6. Unfunded Mandates Reform Act

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 7, 1996.
Richard J. Seibel,
Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 906--COLORADO

1. The authority citation for Part 906 continues to read as follows:

Authority: 30 U.S.C. 1201 et seq.

2. Section 906.15 is amended by adding paragraph (u) to read as follows:

Sec. 906.15 Approval of amendments to the Colorado regulatory program.

* * * * *

(u) The Director approves the proposed revisions submitted by Colorado on November 20, 1995, and revised on February 16, 1996.

3. Section 906.16 is amended by removing and reserving paragraph (a) to read as follows:

Sec. 906.16 Required program amendments.

* * * * *

(a)-(c) [Reserved.]

* * * * *

[FR Doc. 96-13266 Filed 5-28-96; 8:45 am]
BILLING CODE 4310-05-M



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

May 31, 1996

Paige B. Beville
Manager, Environmental, Health and Safety
ARCO Coal Company
555 17th Street, Room 2170
Denver, Colorado 80202

act

Re: Phase III Bond Release Inspection, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #3, Emery County, Utah

Dear Ms. Beville:

This letter is notice that the Division will be conducting a Phase III Bond Release inspection at the Huntington #4 Mine on June 27, 1996 beginning at 10:30 a.m.

If you have any questions, please call me.

Sincerely,



Pamela Grubaugh-Littig
Permit Supervisor

cc: Dan Guy, Blackhawk Engineering
Daron Haddock
Joe Helfrich
Susan White
Daron





State of Utah
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Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

May 31, 1996

Emery County Commission
P.O. Box 297
Castle Dale, Utah 84513

Re: Phase III Bond Release Inspection, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #3, Emery County, Utah

This letter is an invitation and notice that the Division will be conducting a Phase III Bond Release inspection at the Huntington #4 Mine on June 27, 1996 beginning at 10:30 a.m.

If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Pamela Grubaugh-Littig'.

Pamela Grubaugh-Littig
Permit Supervisor





State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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801-538-5319 (TDD)

May 31, 1996

Janette S. Kaiser, Forest Supervisor
U.S. Forest Service
Manti-La Sal national Forest
599 West Price River Road
Price, Utah 84501

Re: Phase III Bond Release Inspection, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #3, Emery County, Utah

Dear Ms. Kaiser:

This letter is an invitation and notice that the Division will be conducting a Phase III Bond Release inspection at the Huntington #4 Mine on June 27, 1996 beginning at 10:30 a.m.

If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Grubaugh-Littig".

Pamela Grubaugh-Littig
Permit Supervisor





State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

May 31, 1996

James Fulton, Chief
Denver Field Division
Office of Surface Mining
Reclamation and Enforcement
Western Regional Coordinating Center
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

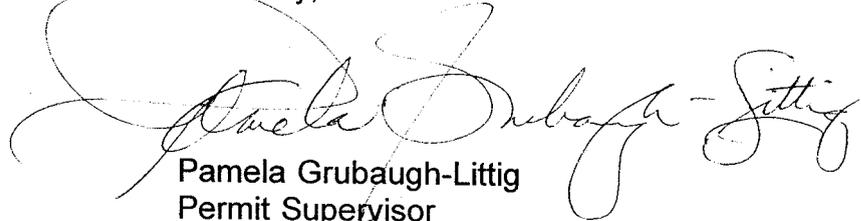
Re: Phase III Bond Release Inspection, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #3, Emery County, Utah

Dear Mr. Fulton:

This letter is an invitation and notice that the Division will be conducting a Phase III Bond Release inspection at the Huntington #4 Mine on June 27, 1996 beginning at 10:30 a.m.

If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script, reading "Pamela Grubaugh-Littig".
Pamela Grubaugh-Littig
Permit Supervisor





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3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

May 31, 1996

Darrell V. Leamaster, District Manager
Castle Valley Special Service District
P.O. Box 877
Castle Dale, Utah 84513

Re: Phase III Bond Release Inspection, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #3, Emery County, Utah

Dear Mr. Leamaster:

This letter is an invitation and notice that the Division will be conducting a Phase III Bond Release inspection at the Huntington #4 Mine on June 27, 1996 beginning at 10:30 a.m.

If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Grubaugh-Littig".

Pamela Grubaugh-Littig
Permit Supervisor



DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
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Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Trid Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

November 2, 1994

Thomas E. Ehmett, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Ste. 1200
Albuquerque, New Mexico 87102

Re: Findings for Phase II Bond Release, Huntington #4 Mine, Mountain Coal Company, ACT/015/004-93B, Folder #3, Emery County, Utah

Tom
Dear Mr. Ehmett:

Following are the findings and chronology for the Phase II bond release for the Huntington #4 Mine:

Dec. 13, 1994: Application for Phase II bond release submitted to the Division including a sed-cad analysis and vegetative information.

Newspaper Advertisement for Phase II bond release published in the Sun Advocate on September 21, 28 October 5, and 12, 1993. No comments received.

March 4, 1994: Copies of March 1, 1994 notification letters to appropriate parties about Phase II bond release application is submitted to Division.

April 22, 1994: Letter from the Division is sent to landowner (Forest Service), OSM-AFO, and Darrell Leamaster, Castle Valley Special Service District, and Emery County Commission, inviting their participation in the Phase II Bond Release inspection scheduled for May 18, 1994. Darrell Leamaster declines invitation to participate in the Phase II bond release inspection because he states he has "no problem" with the reclaimed site.





State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

1594 West North Temple, Suite 1210

Box 145801

Salt Lake City, Utah 84114-5801

(801) 538-5289

801-359-3940 (Fax)

801-538-5319 (TDD)

August 29, 1996

James Fulton, Chief
Denver Field Division
Office of Surface Mining
Reclamation and Enforcement
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

Re: Phase III Bond Release Application, Huntington #4 Mine, Mountain Coal Company, ACT/015/004, Folder #2, Emery County, Utah

Dear Mr. Fulton:

I am enclosing the Phase III Bond Release Application for the Huntington #4 Mine for your review and files. If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pamela Grubaugh-Littig".

Pamela Grubaugh-Littig
Permit Supervisor





State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple

3 Triad Center, Suite 350

Salt Lake City, Utah 84180-1203

801-538-5340

801-359-3940 (Fax)

801-538-5319 (TDD)

April 26, 1996

Paige Beville
Manager, Environmental, Health and Safety
ARCO Coal Company
555 17th Street, Room 2170
Denver, Colorado 80202

Re: Phase III Bond Release, Huntington #4 Mine, Mountain Coal Company,
ACT/015/004, Folder #3, Emery County, Utah

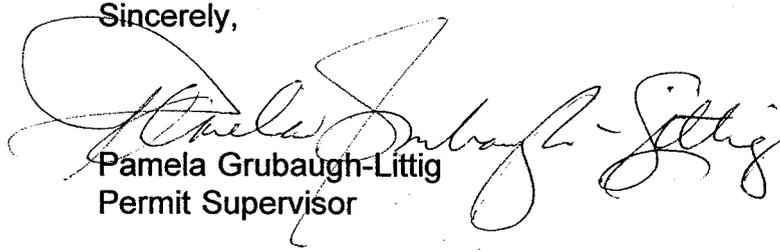
Dear Ms. Beville:

The Division received the Phase III Bond Release application for the Huntington #4 Mine on February 21, 1996. I reviewed the administrative portion of the application and notified Dan Guy by telephone on March 28, 1996 that there were some errors in the public notice. On April 2, 1996 the Division received a revised and corrected public notice. Mr. Guy notified me that he was republishing the notice.

At this time, Division staff is reviewing the technical portions of the bond release application. The bond release inspection and evaluation will be arranged in the near future when weather conditions permit.

If you have any questions, please call me.

Sincerely,


Pamela Grubaugh-Littig
Permit Supervisor

cc: Daron Haddock
Joe Helfrich
Susan White
Sharon Falvey



AFFIDAVIT OF PUBLICATION

ACT/015/004
Copy JAM #2

STATE OF UTAH)

SS.

County of Emery,)

I, Kevin Ashby, on oath, say that I am the Publisher of the Emery County Progress, a weekly newspaper of general circulation, published at Castle Dale, State and County aforesaid, and that a certain notice, a true copy of which is hereto attached, was published in the full issue of such newspaper for 4 (Four) consecutive issues, and that the first publication was on the 2nd day of April, 1996 and that the last publication of such notice was in the issue of such newspaper dated the 23rd day of April, 1996.



Kevin Ashby - Publisher

Subscribed and sworn to before me this 23rd day of April, 1996.



Notary Public My commission expires January 10, 1999 Residing at Price, Utah

Publication fee, \$261.12

PUBLIC NOTICE
HUNTINGTON CANYON NO. 4 MINE
Permit #INA/015/004
Mountain Coal Company
P.O. Box 591
Somerset, Colorado 81434

Application for Final Release of Performance Bond
Mountain Coal Company completed reclamation Phase I at its Huntington Canyon No. 4 Mine during the period of August 15, 1985 through September 30, 1985. Phase I Bond Release was granted on November 10, 1986. The company completed reclamation Phase II, which is based on establishment of revegetation and sediment control in accordance with the approved reclamation plan. Phase II Bond Release was granted on November 15, 1995. The Company has now completed Phase III, which is based on successful completion of all mining and reclamation operations with a minimum period of 10 years following reclamation. The original permit approval was on April 29, 1985.

In accordance with the provisions of R645-301-880, of the Utah Coal Mining Rules, notice is hereby given to the general public that Mountain Coal Company is applying for final release of the performance bond posted for this operation.

The original bond posted for this property was \$360,104.00 of which \$216,062.40 (60%) was released on November 10, 1986 upon approval of Phase I Bond Release. An additional \$97,307.60 was released on November 15, 1995 upon approval of Phase II Bond Release. The present bond posted for this site is \$46,734.00. Mountain Coal Company is seeking release of the balance of the original bond, or \$46,734.00.

The Huntington Canyon No. 4 Mine is located in Mill Fork Canyon, approximately 35 road miles southwest of Price, Utah. The following are the legal descriptions of the permit area:

- Township 16 South Range 7 East, SLBM, Utah
- Sec. 8 SW 1/4, S 1/4, SE 1/4
- Sec. 9 SW 1/4, SW 1/4, SE 1/4
- Sec. 16: All of Section
- Sec. 17: E 1/4

The permit area is located on the Rilda Canyon, Utah, U.S. Geological Survey 15-minute quadrangle map.

Federal Coal leases were #U-33454 and #SL-064903. These leases have been terminated.

The reclamation work was performed on approximately 37 acres of disturbed and affected area located on the following described lands:

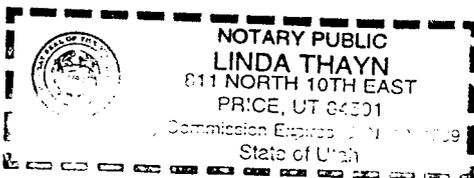
- Township 16 South, Range 7 East SLBM, Utah
- Sec. 16: SW 1/4, SE 1/4
- Sec. 16: S 1/4, SW 1/4
- Sec. 17: SE 1/4, SE 1/4

The Division will now evaluate the proposal to determine whether it meets all the criteria of the Permanent Program Performance Standards according to the requirements of the Utah Coal Mining Rules.

Utah completion of the evaluation for said reclamation, a decision will be made as to approval or disapproval of the application. The reclamation plan is available for public review at: Division of Oil, Gas, and Mining, 355 West North Temple, 3 Triad Center Suite 350, Salt Lake City, Utah 84180-1203, and the Emery County Courthouse, Castle Dale, Utah 84513.

Written comments, objections, and requests for public hearing or informal conference on this proposal may be addressed to the Director of the Division: Mr. Jim Carter, Director, Division of Oil, Gas, and Mining, 355 West Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203, Attention: Mr. Lowell Braxton.

Published in the Emery County Progress April 2, 9, 16 and 23, 1996.



From: Paul Baker
To: PGrubaugh-Lit
Date: Wednesday, April 3, 1996 12:38 pm
Subject: Phase III Bond Release

The big thing I saw missing in your note about Phase III bond release was a discussion of the vegetation. They need to show it meets all performance standards, including diversity, seasonality, erosion control (although that one may have been done for Phase II), permanence, and ability to regenerate and have plant succession. For wildlife habitat, they need to show that 80% of the shrubs and trees counted toward the stocking standard have been in place for at least 60% of the extended responsibility period. Also, nothing that's been in place for less than two growing seasons can be used toward the success standard.

I think what you said about the postmining land use is something that's been overlooked and is very important.

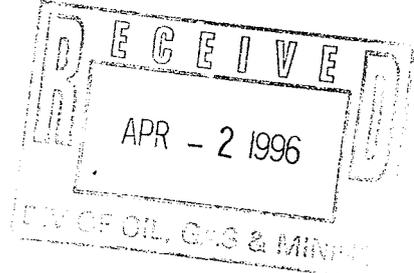
I look forward to our discussion Monday.



BLACKHAWK ENGINEERING, CO.

DAN GUY

*Answered
FRI: insert 3/29/96
Please insert
appropriate
sheet, return
for other
of.*



Dan:

Here's a revised Public Notice for the Huntington Canyon No. 4 Mine Final Bond Release Application.

I've had it republished. I've also included a punched copy to replace the one in the application.

Let me know if you need anything else.

*Thanks,
Dan*

**Huntington Canyon No. 4
30, 1985. Phase I Bond
pleted reclamation Phase
nt control in accordance
as granted on November 15,
ased on successful
nimum period of 10 years
pril 29, 1985.**

**h Coal Mining Rules, notice
any is applying for final**

**which \$216,062.40 (60%) was
l Release. An additional
of Phase II Bond Release.
Coal Company is seeking**

The Huntington Canyon No. 4 Mine is located in Mill Fork Canyon, approximately 35 road miles southwest of Price, Utah. The following are the legal descriptions of the permit area:

- Township 16 South, Range 7 East, SLBM, Utah**
- Sec. 8: SW ¼, S ½ SE ¼**
- Sec. 9: S ½ SW ¼, SW ¼ SE ¼**
- Sec. 16: All of Section**
- Sec. 17: E ½**

3/28/96

~~Should this be submitted by applicant?~~

Should this be submitted by applicant?

Huntington #4 Mine Analysis for Phase III Bond Release

Draft Suggestions

For discussion @ 4/2/96 Staff meeting

1. Discussion and documentation, that the approved post-mining land uses have been achieved.

Wildlife habitat is a component of the post-mining land use. The application a discussion of the utility of the reclaimed land as a wildlife habitat (e.g. suitability for cover, food, winter or summer range, breeding grounds, water resources, etc.).

2. Analysis of surface and groundwater quantity and quality impact analysis

- Assessment of available hydrology data relative to the impact projections contained within the approved DHC and CHIA.

- Demonstrate onsite impacts have been minimized, and that offsite impacts have been prevented.

- Analysis of any impact trends which may exist in the data.

3. Analysis of observed vs. projected subsidence impacts, from subsidence caused material damage/prevented/mitigated.

4. Reaffirmation of Permit Conditions or
Special Conditions or Stipulations
Have they been met?

5. Do AVE check

6. Other?

Mountain Coal Company
West Elk Mine
Post Office Box 591
Somerset, Colorado 81434
Telephone 303 929-5015



February 15, 1996

FEB 20 1996

Mr. Lowell Braxton, Administrator
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Re: Application for Final Bond Release
Huntington Canyon No. 4 Mine
INA/015/044, UT-004
Emery County, Utah

Copy F.A.M.

2

Dear Mr. Braxton:

Mountain Coal Company has completed Phase III of the approved reclamation plan for the Huntington Canyon No. 4 Mine. This is based upon the establishment of revegetation and sediment control in accordance with the approved reclamation plan with a minimum period of 10 years following reclamation. The sedimentation pond was removed and the area was reseeded in the Fall of 1995.

In accordance with the provisions of R645-301-880, Mountain Coal Company is hereby applying for release of the remaining performance bond. The original bond posted for this property was \$360,104.00. 60% (\$216,062.40) was released on November 10, 1986 upon approval of Phase I Bond Release. Phase II Bond Release was granted by the Division on November 15, 1995. The present bond posted for this site is \$46,734.00. Mountain Coal Company is hereby applying for release of the balance of the original bond, or \$46,734.00. The disturbed area for this site was 12.29 acres, with affected area of approximately 37 acres. The initial site reclamation was completed in September, 1985.

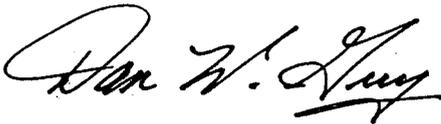
Copies of letters for notification to land owners, agencies, and water companies in the area are enclosed. A copy of the newspaper advertisement placed prior to submittal of this application is enclosed. This advertisement will run for four consecutive weeks in the local area papers. Proof of publication will be sent to the Division upon completion.

February 15, 1996

Page 2

It is our hope this application will meet with your approval. If you have any questions, or need any further information, please let me know.

Respectfully,

A handwritten signature in cursive script, appearing to read "Dan W. Guy". The signature is written in black ink and is positioned above the typed name.

*Dan W. Guy, P.E.
for Paige B. Beville*

Encl.

*cc: Scot Anderson
Paige Beville
File*

COLORADO DIVISION OF MINERALS AND GEOLOGY

Final

***GUIDELINE REGARDING SELECTED
COAL MINE BOND RELEASE ISSUES***

April 18, 1995



State of Colorado

Department of
Natural Resources

Michael B. Long
Division Director

Groundwater, spoil aquifer and surface water impacts will be considered within the context of site-specific hydrologic units. These units will not typically coincide with bond release blocks as defined above.

Trends which may be apparent in the monitoring data must be assessed. Spoil aquifer and other groundwater impact predictions typically encompass time periods much longer than 10 years. Accordingly, impact analysis will focus on trends which would support or refute long-term stability in quantity and quality data. Bond release might be delayed if the surface or groundwater quality data indicate trends towards hydrologic balance degradation.

Part 5

Hydrologic Considerations

Sediment Demonstrations

Evaluation of reclaimed areas with respect to suspended solids demonstrations generally will entail modelling, or a combination of modelling and site specific runoff and sedimentation data for specific reclaimed watersheds within each bond release block. In some cases, such demonstrations may be required for multiple subwatersheds within a single reclamation parcel. As with vegetation, suspended solids demonstration methodologies, sampling locations, and standards should be established during the permitting process, and refined, if necessary prior to Phase II or Phase III bond release submittal. Sedimentation and runoff modelling for specific subwatersheds must be based on site specific ground cover data, soils, and slope conditions for the subwatershed of concern. Ground cover estimates (vegetation, rock, and litter) should be obtained using the sampling approaches recommended in this document.

Erosional stability will be evaluated by the Division during Phase II and Phase III bond release inspections. In order to minimize conflicts with regard to what constitutes "excessive erosion" with respect to the extent of rilling and gulying and the size of individual gullies, it is important that this issue be addressed with sufficient specificity in the rill and gully control plan contained in the permit application.

Sediment demonstration methodologies and erosional stability evaluation considerations applicable to each bond release phase will vary depending upon site-specific conditions. Operators are encouraged to develop a site-specific sediment delivery demonstration methodology in consultation with the Division, prior to implementation of any field or modelling studies. The extent to which temporary drainage and sediment control measures (e.g., diversions, check dams, sediment ponds, etc.) are allowed to contribute to such evaluations for each bond release phase will be determined on a site-specific basis. In general, the Division interprets the Rules to require increasing reliance on permanent topographic features and vegetation, and less reliance on temporary measures with succeeding bond release phases. To a large extent, temporary stabilization and sediment control measures should be unnecessary for reclaimed areas which qualify for Phase II release, and all such measures must be eliminated prior to Phase III release.

Water Quantity and Quality Impacts

The Phase III bond release application must include a detailed water quantity and quality impact analysis to assess compliance with 4.05. This analysis will provide a summary of existing surface and groundwater data for the mine and adjacent areas. Adequate monitoring facilities must remain in place and functional through the bond liability period to ensure that this requirement can be met.

The submitted analysis and subsequent review will evaluate whether onsite impacts have been minimized to the extent predicted in the approved Probable Hydrologic Consequences section of the permit. The analysis will also evaluate whether offsite impacts and material damage have been prevented in accordance with the approved Probable Hydrologic Consequences section and existing Cumulative Hydrologic Impact Analysis.

The revegetation section of the release application should include a description of the sampling methods used, success standard comparisons, and statistical procedures (including sample adequacy calculations and statistical tests). Summarized transect cover data (total vegetation cover, and absolute cover by species, rock, soil, and litter, for each transect) and woody plant density data should be included in addition to summary data tables. The revegetation will be considered successful if the criteria of Rule 4.15.8, and the standards set forth in the approved permit, have been achieved. For success comparison and statistical evaluation purposes, the cover and production contribution of any noxious weed species or "excess" annuals and biennials should be discounted (i.e. subtracted from the total for each sample observation) prior to success comparison for cover and production.

Cropland, previously mined lands or areas to be developed for industrial or residential use, and prime farmlands will be evaluated against the standards required by the approved permit. Refer to Rule 4.15.9 for cropland success criteria, 4.15.10 for previously mined lands and areas to be developed for industrial or residential use, and 4.25.5(3) for prime farmlands.

4. A discussion and documentation that the approved post-mining land uses have been achieved. If livestock grazing is a component of the post-mining land use, but grazing has not been conducted during the liability period, the application should include a discussion of the utility of the reclaimed land for livestock grazing (e.g. forage species composition, palatability and productivity, presence of poisonous or noxious plants, livestock access to forage areas, availability of water, etc.). If wildlife habitat is a component of the post-mining land use, the application should include a discussion of the utility of the reclaimed land as wildlife habitat (e.g., suitability for cover, food, winter or summer range, breeding grounds, water resources, etc.).
5. A surface and groundwater quantity and quality impact analysis. This analysis must include an assessment of available hydrology data relative to the impact projections contained within the approved Probable Hydrologic Consequences and the applicable Cumulative Hydrologic Analysis. The analysis must show that onsite impacts have been minimized, and that offsite impacts have been prevented. The analysis must include an evaluation of any impact trends which may exist in the available data.
6. For underground mines, the application should include an analysis of observed versus projected subsidence impacts, and a discussion of how any subsidence caused material damage was prevented or mitigated.

*Some of things Colorado
requires of operators
at Phase III.
Susan*

7/11

DRAFT POLICY FOR BOND RELEASE INFORMATION

The objective of this policy is to provide information on the general requirements for bond release in accordance with rules and regulations pertaining to surface and underground coal mining activities in the state of Utah.

PRIOR TO BOND RELEASE REQUEST

In accordance with Section UMC/SMC 800.40 of the regulations [R645-301-880], the operator must submit appropriate reclamation ^{summaries} evaluations **prior to application for bond release.** Additionally, ^{with each} ~~weather conditions must allow for~~ site inspection and evaluation of the work accomplished on the site ~~must be conducted during~~

In order to comply with the requirements for bond release, the Operator shall be required to:

1. Address all outstanding stipulations for the permit as required.
2. Submit as-built plans, including designs, reports and drawings of the reclamation work accomplished. Any modifications, amendments, or changes to the reclamation plan as a result of the reclamation work must be approved by the Division and incorporated into the Mining and Reclamation Plan prior to request for bond release.
3. Submit a detailed cost estimate for the remaining reclamation work to be accomplished in the plan. The cost estimate shall include but not be limited to cost for remaining reclamation treatments; revegetation; vegetative, water, and other monitoring requirements; surveys or studies to determine reclamation success; maintenance costs; and, engineering and contingency costs.
4. Submit a copy of the proposed newspaper advertisement for requesting bond release. (see part B below)

REQUEST FOR BOND RELEASE

- A. **GENERAL REQUIREMENTS** - Bond release information submitted by the operator must contain or reference the following information:
1. Notice Letters shall at a minimum contain the same information as submitted in the Newspaper Advertisement (see part B below). Copies of all Notice Letters shall be submitted to the Division. Notice Letters shall be sent to all parties who have a valid interest in release of the bond notifying them of intention to seek release, and shall include but not be limited to:
 - a. Surface Owners
 - b. Subsurface Owners
 - c. Adjoining Property Owners
 - d. State Historical Society
 - e. State Department of Water Resources
 - f. State Department of Health
 - g. State Department of Wildlife Resources
 - h. Federal Agencies (BLM, Forest Service, Soil Conservation Service, etc. as may be involved with **FEDERAL** mines)
 - i. County Commissioners
 - i. Mayors
 - j. Local Planning Agencies
 - k. Municipality Authorities
 - l. Others _____
 2. A legal description of the release area.
 3. Maps of a scale of 1"=500' or larger illustrating the boundaries of lands for which bond release is being requested. The maps shall include the entire disturbed area boundaries and delineate areas of prior bond release and include the date and the acreage for the PHASE(S) of reclamation which bond has currently been released.
 4. References to the appropriate portions of the approved mining and reclamation plan and revisions for postmining topography, drainage control, vegetation, intended land use, etc. citing the specific reclamation treatments, areas, and work which was accomplished in consideration for bond release.
 5. A summary of the current bond amount, total disturbed area acreages, and the acreages, locations, dates and amounts of bond released for PHASE I, PHASE II, and PHASE III reclamation.

B. **NEWSPAPER ADVERTISEMENT** - Newspaper Advertisements shall be approved by the Division PRIOR to publication. A copy of a newspaper advertisement which is published at least once a week for four consecutive weeks in a newspaper of the locality of the mining operation shall be submitted to the Division within 30 days from the date of bond release application. The advertisement shall contain the following items:

1. The permit number, name of the permittee, and the permit approval date.
2. Accurate legal description of the land under consideration for release.
3. Number of acres to be considered for release.
4. Current amount and type of bond.
5. The amount of bond being sought for release.
6. A description of the type of reclamation work performed and the dates when the work was performed and completed.
7. A statement that written comments, objections and requests for public hearing or informal conference may be submitted to the Division of Oil, Gas and Mining.
8. The address of the Division of Oil, Gas and Mining, where requests, comments and objections may be submitted.
9. The closing date for submission of such comments, etc. (At least 30 days AFTER the last publication date.)

C. **INSPECTION BY DIVISION** - Upon receipt of the bond release application and acceptance of the information presented in the application, the Division shall within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. In conjunction with the inspection, the following shall be accomplished:

1. The surface owner, agent or lessee shall be given notice of the inspection by the Division and may participate with the Division in making the bond release inspection. The Division may also arrange with the Operator to permit other persons with an interest in bond release access to the site for the purpose of gathering information relevant to bond release proceedings.
2. Notification to the Office of Surface Mining shall be made two-weeks prior to the scheduled bond release inspection in accordance with OSMRE Directive REG-26 for concurrence with bond release on FEDERAL LANDS.

3. A field report regarding the inspection will be prepared by the Division. The report shall include any concerns raised by other persons present at the time of the inspection. The field report will be used in conjunction with the information presented by the operator in evaluation for bond release.
- D. **PUBLIC HEARINGS AND WRITTEN OBJECTIONS** - Written objections and requests for public hearings or informal conferences may be made by any person with a valid legal interest which might be adversely affected by release of the bond, or by any federal, state or local governmental agency which has jurisdiction by law, special expertise, or enforcement regarding any impact involved in the operation.
1. The Division shall notify the operator, surety and persons who either filed objections in writing or who were party to the hearing proceeding, if any, of its decision to release or not release all or part of the performance bond. If no public hearing is held, the notification shall occur within 60 days from the filing of the bond release application, or, if a public hearing is held, within 30 days after the hearing has been held.
 2. The Division may hold an informal conference as provided in UCA 40-10-13(a) of the Act to resolve written objections. The Division shall make a record of the informal conference unless waived by all parties, which shall be made accessible to all parties. The Division shall also furnish all parties of the informal conference with a written finding of the Division based on the informal conference and the reasons for said finding.

PHASE I BOND RELEASE

Bond release for PHASE I may be considered only after the Division is satisfied that all the reclamation requirements for PHASE I have been met. The requirements for PHASE I reclamation are:

1. Completion of backfilling and regrading (which may include the replacement of topsoil); and,
2. Completion of drainage control in accordance with the requirements of the approved reclamation plan.

A request for PHASE I bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:

1. A map illustrating the "as-built" topography if different than the most recently approved plan.

2. Pre and Postmining Contour Topographic Maps (no smaller than 1"=500') showing:
 - a. Permit Area
 - b. Areas Previously Released
 - c. Areas Proposed for Release
 - d. Postmining Topography
 - e. Postmining Hydrologic Features, including drainage, ponds, and monitoring sites
 - f. Cross-sections, including but not limited to, Approximate Original Contour (AOC), drainage systems, ponds, roads, etc.
 - g. Date of Backfilling and Grading Activities
 - h. Dates of Topsoil Replacement
 - i. Topsoil Replacement Depths
3. Results of overburden chemical analysis with discussion on how overburden will not adversely affect plant growth or water quality.
4. Evaluation of topsoil or substitute soil including analyses and replacement depths.
5. Evaluation of subsoil including analyses and replacement depths.
6. Any field designs, modifications or changes to the mining and reclamation plan which occurred in conjunction with the reclamation activities.
7. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended.

PHASE II BOND RELEASE

Bond release for PHASE II may be considered only after the Division is satisfied that all the reclamation requirements for PHASE II have been met. The requirements for PHASE II reclamation are:

1. Completion of PHASE I reclamation;
2. Revegetation has been established in accordance with the requirements of the approved reclamation plan; and,

3. No part of the land considered for bond release is contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by UCA 40-10-17(j) of the Act and by Subchapter K [R645-301-200(Part 823)] of the regulations, or, where a permanent impoundment is to remain as a siltation structure under provisions made with and approved by the Division; and,
4. In the event that the area under consideration includes prime farmlands, that soil productivity has returned to the equivalent levels of yield as non-mined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to UCA 40-10-11(4) of the Act and Part 823 [R645-301-200(Part 823)] of the regulations.

A request for PHASE II bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:

1. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended, and when specific revegetation treatments were applied in accordance with the approved plan, and when, if any, additional revegetation treatments or supplements were applied.
2. Detailed vegetation information including sampling data on productivity and cover, species composition, and sampling methodology in accordance with the approved reclamation plan and as required by state regulation and policy.
3. Any field designs, modifications or changes to the mining and reclamation plan which occurred in conjunction with the reclamation activities.

PHASE III BOND RELEASE

Bond release for PHASE III may be considered only after the Division is satisfied that all the reclamation requirements for PHASE III have been met. The requirements for PHASE III reclamation are:

1. Completion of PHASE I reclamation;
2. Completion of PHASE II reclamation; and,
3. The period specified for Operator responsibility in Section UMC/SMC 817.116 of the regulations [R645-301-356] has been met.

A request for PHASE III bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:

1. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended, and when specific revegetation treatments were applied in accordance with the approved plan, and when, if any, additional revegetation treatments or supplements were applied.
2. Water quality data and analysis indicating successful erosion protection and ground and surface water quality.
3. Detailed vegetation information including sampling data on productivity and cover, species composition, and sampling methodology in accordance with the approved reclamation plan and as required by state regulation and policy.

BOND RELEASE, DETERMINATION OF AMOUNT

The Division shall review, revise and approve the recalculated bond amount as necessary in order to determine the amount of bond to be retained and the amount of bond to be released. If it is determined that the current bond amount is inadequate and the remaining costs exceed what is currently held by the Division, the Division may require an increase to the bonding sum rather than a partial reduction of the dollar value of the bond. It may be possible to release partial liability on lands reclaimed without actually reducing the dollar sum.

PHASE I bond release shall in no case exceed 60% of the bond for the applicable area.

PHASE II bond release shall require that the Division retain that amount of bond for the revegetated area which would be sufficient to cover the cost reestablishing revegetation if completed by a third party and for the period specified for operator responsibility in UCA 40-10-17(t) of the Act for reestablishing revegetation.

PHASE III or final bond release shall not be made until such time as the period specified for Operator responsibility in Section UMC/SMC 817.116 of the regulations [R645-301-356] has been met, or, PHASE II reclamation requirements have been met, whichever is greater.