



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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January 16, 1992

TO: Pamela Grubaugh-Littig, Permit Supervisor

FROM: Jesse Kelley, Reclamation Engineer *JK*

RE: Prelaw Access Road Along Ivie Creek, Hidden Valley Coal Company, Hidden Valley Mine, ACT/015/007, Folder #2, Emery County, Utah

## Synopsis

The Division has always treated the "old road," which accessed this site by way of the channel of Ivie Creek, as a non-permitted prelaw feature. When OSM's Mitch Rollings visited the site on November 19, 1991, however, he raised some questions as to whether or not the old road had been used after August 3, 1977 and could properly be designated as prelaw.

In a December 6, 1992 letter, the Division asked the operator to document the prelaw status of the old road. The operator responded to this request in a January 8, 1992 letter to the Division. This memorandum constitutes an analysis of the operator's response.

## Analysis

The operator's letter makes three assertions:

- 1) Bulk coal samples were removed from the site by way of the old road, in about June of 1977.
- 2) The old road was not used after August 3, 1977.
- 3) The "new" road was built in about April of 1980 and has been the sole access to the site since that time.

The writer was able to establish the correct chronology of road use and site construction by examining the Division's photographic record and by consulting Tom Paluso of Soldier Creek Coal Company (Price, Utah) and Vincent Tonc of United Technologies (Grand Junction, Colorado), both of whom worked at this site. Tonc worked for Soldier Creek From March, 1976 until March, 1978 and participated in bulk sampling in June, 1977.

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Paluso started work with Soldier Creek in 1978 and is still with the company. He actually constructed the new road in May of 1980.

Tonc confirmed, in a January 14, 1992 telephone conversation with the writer, that bulk sampling was done in June, 1977. Access at the time was by way of the bank of Ivie Creek, which was not in good condition for vehicle travel and had to be filled in several places by bulldozer. The old road was thus nothing more than a trail. Tonc further informed the writer that there was no activity at the site and, thus, no use of the old road, from June of 1977 until March of 1978, when he left Soldier Creek.

Paluso assured the writer, in a January 15, 1992 telephone conversation, that the old road was not used between 1978, when he started with Soldier Creek, and May of 1980, when he built the new road. Paluso said that this was because vehicle access to the site was not required and because the old road was washed out after 1978 and was thus impassable. Paluso also said that from 1978 until May of 1980, when the new road was built, the only access to the site was a foot path from the area of the present site entrance.

The chronology established by Paluso and Tonc is confirmed by photographs found in the Division file for this site. One shows the site in July of 1979, two years after bulk sampling. This photograph clearly shows that major earthwork had not been done by that time. A second photograph, taken early in May of 1980, shows the construction of the new access road and the absence of major earthwork. A third photograph, taken a month after the second, in June of 1980, shows the new road finished and large machinery at work on the main pads and sediment ponds.

In conclusion, then, the operator's December 6, 1991 letter to the Division is accurate. The old road was indeed not used after August 3, 1977. The old road is, as the operator maintains, a prelaw feature.

### Recommendations

It is recommended that the old road be recognized as a prelaw feature and that it not be permitted as part of the disturbed area.

jbe  
cc: Bill Malencik  
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