


CONSOL ENERGY™

Consolidation Coal Company
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May 17, 2002

Mr. Lowell Braxton, Director
 Department of Natural Resources
 Division of Oil, Gas and Mining
 1594 West North Temple, Suite 1210
 Box 145801
 Salt Lake City, Utah 84114-5801

Re: Submittal of Application
 Division Order - 02A
 Emery Mine
 Permit c/015/015

*Jacobs
 c/015/015*

*Response to
 Division Order*

Dear Mr. Braxton:

In response to the Division of Oil, Gas and Mining's Division Order dated May 3, 2002 for 4th East Portal Development, Consolidation Coal respectfully submits the enclosed Application for Amendment to Emery Mine, Permit 015/015. In addition we submit the following responses for the Division's consideration.

With respect to the Division Order, each cited regulation is addressed within the application and with the following response.

1. R645-301-411.140 - A cultural resource (historical/archeological) survey must be done by a SHPO (State Historic Preservation Officer) approved consultant of the entire proposed 22 acre disturbance. The survey must be performed as required for SHPO clearance.

Response: This survey was originally performed by Michael Berry, Assistant State Archeologist, Division of State History, Department of Development Services, State of Utah on March 9th & 10th of March 1975. Mr. Berry's reports states the entire area was traversed on foot at 50 to 75 feet intervals. This report was reviewed and approved by John Smith, Historic Preservation Specialist, Utah State Division of State History. Copies of these documents can be found in ACT/015/015, Chapter 10, Appendix 5-2. Page 11 in Appendix 5-2 is a copy of SHPO's sign off.

Under the recent Order, Mr. Dykman was contacted by representatives of Consolidation Coal to verify certification of consultants. Keith Montgomery (Montgomery Archaeological Consultants, Moab, Utah) was contracted to perform the cultural resource survey. Mr. Montgomery conducted this survey from April 30, 2002 to May 2, 2002. This report is being submitted in the application as Appendix 5-5, Chapter 10. Mr. Montgomery determined a negative finding for the area. Validating the original findings of the 1975 survey.

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2. R645-300-121.320 & R645-301-322 - The Division must contact the USFWS (U.S. Fish & Wildlife Service) for a list of species present within the area. Usually the list is the same as found at http://www.utahcdc.usu.edu/ucdc/ViewReports/te_cnty.pdf. All species on this list will need to be addressed, but most likely the Wright fishhook cactus, last chance townsendia, and the Despain footcactus will require a site-specific survey. With this information the Division will continue Section 7 Consultation with the USFWS. All state listed sensitive species, and those birds protected by the Migratory Bird Treaty Act must be addressed with a site-specific survey likely required for burrowing owl.

Response: The original approved survey for Fish & Wildlife was performed in 1980. A site specific survey of the 4th East Portal site was conducted by Larry Dalton, Manager Wildlife Program , Utah Division of Wildlife Resources (DWR) on April 11, 1989. His inspection survey verified low levels of inhabitation by wildlife on the site. Mr Dalton wrote "without question, those animals that are present will be displaced, however, the impact is without significance."

A site visit was repeated on February 19, 2002 by Larry Mead & Chris Colt of the Utah Division of Wildlife Resources. At that time neither DWR representatives expressed any concerns with the wildlife due to the construction of the 4th East Portal site. This is confirmed by Susan White's technical field visit report dated February 23, 2002 which states "the proposed 4E breakout area was observed and DWR had no concerns".

To address the Division Order, Consolidation Coal Company contracted with Patrick Collins, Mt. Nebo Scientific Inc. to conduct the additional surveys for the requested species during the appropriate time frames including the sensitive species of the burrowing owl.

As stated in Mr. Collins reports "No threatened, endangered, rare, or otherwise sensitive wildlife species have been identified or are expected to exist in the 4th E Portal Area." Mr. Collins did access the appropriate databases and conferred with DWR prior to conducting his field surveys.

Mr. Collins report for the Biological Resources of the 4th East Portal Area has been included in the application as Appendix VIII-1, Chapter VIII.

3. R645-300-121.320 & R645-301-322 - The wetland delineation must follow a designated process. A person who has completed the U.S. Army Corps of Engineers (ACE) training must do a woodland delineation of the proposed disturbance. That person then fills out the and the permittee submits an application for Nationwide Permit 21 to ACE. A determination by ACE is made and mitigation or other action then determined. This information and copies of the application should be included in an appendix to the MRP.

Response: As proposed by Consolidation Coal Company at the 4th East Portal Site, there will be no immediate disturbance of the potential wetlands area. If the potential wetlands area is to be considered for disturbance the appropriate designation of such shall be confirmed by the Army Corps of Engineers and appropriate permits obtained.

4. R645-103-234 - Mining activities are planned to be conducted within 100 feet of a public road (Emery County Road #915). Approvals for this activity from the authority with jurisdiction over the public road must be submitted to the Division. A notice also needs to be published in a local newspaper of general circulation which provides the public an opportunity to comment and hold a hearing. Copies of the notice must be supplied to the Division.

Response: The appropriate publication required by this regulation was published April 30, 2002 in the Sun Advocate and the Emery County Progress. Certification of Public Notice is being submitted under separate cover.

5. R645-300-112.400 - The proposed road between the two permit are disturbances must be evaluated to determine whether or not it is required to be permitted under the Utah Coal rules. In order for the road not to be permitted it must be demonstrated that the particular road is not included in the definition of "surface coal mining operations".

Response: Emery County has approached Consolidation Coal Company to request a "Right-of-Way" through their property to connect two (2) County Roads. Consolidation Coal agreed and provided a "Right-of-Way" in April 2002.

The information contained in the Order was originally requested on April 22, 2002. The appropriate information was requested and received by the Emery County Road Department and included in a response to Daron Haddock on April 30, 2002.

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It is Consolidation Coal Company's understanding that, when these issues have been addressed and submitted to the Division for review and approved, construction of the 4th East Portal can begin in regards to the existing permit.

If you have any questions, please call Seth McCourt at (435)286-2301 or the undersigned at (618)625-6847.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy D. Kirschbaum". The signature is written in a cursive style with a large initial "T".

Timothy D. Kirschbaum
Environmental Engineer
(618)-625-6847

cc: S. McCourt, Emery Mine
S. Demczak, DOGM Price Field Office
B. Hyita, 519 Office
J. Zachwieja, 519 Office

APPLICATION FOR PERMIT CHANGE

Title of Change: Submittal of Information in Compliance to Division Order - Emery Deep Mine C/015/015-DO02A	Permit Number: ACT / 015 / 015 Mine: Emery Mine Permittee: Consolidation Coal
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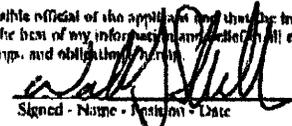
Description, include reason for change and timing required to implement:

Submittal of Cultural Resource Survey, Soil & Biological Survey of 22.5 acre proposed disturbance of the 4th East Portal Site

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	1. Change in the size of the Permit Area? _____ acres <input type="checkbox"/> Increase <input type="checkbox"/> decrease.
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	2. Change in the size of the Disturbed Area? _____ acres <input type="checkbox"/> Increase <input type="checkbox"/> decrease
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	3. Will permit change include operations outside the Cumulative Hydrologic Impact Area?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	4. Will permit change include operations in hydrologic basins other than currently approved?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	5. Does permit change result from cancellation, reduction or increase of insurance or reclamation bond?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	6. Does permit change require or include public notice publication?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	7. Permit change as a result of a Violation? Violation # _____
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	8. Permit change as a result of a Division Order? D.O. # C/015/015-DO02A
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	9. Permit change as a result of other law or regulations? Explain: _____
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	10. Does permit change require or include ownership, control, right-of-entry, or compliance information?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	11. Does the permit change affect the surface landowner or change the post mining land use?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	12. Does permit change require or include collection and reporting of any baseline information?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	13. Could the permit change have any effect on wildlife or vegetation outside the current disturbed area?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	14. Does permit change require or include soil removal, storage or placement?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	15. Does permit change require or include vegetation monitoring, removal or revegetation activities?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	16. Does permit change require or include construction, modification, or removal of surface facilities?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	17. Does permit change require or include water monitoring, sediment or drainage control measures?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	18. Does permit change require or include certified designs, maps, or calculations?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	19. Does permit change require or include underground design or mine sequence and timing?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	20. Does permit change require or include subsidence control or monitoring?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	21. Have reclamation costs for bonding been provided or revised for any change in the reclamation plan?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	22. Is permit change within 100 feet of a public road or perennial stream or 500 feet of an occupied building?
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	23. Is this permit change coal exploration activity <input type="checkbox"/> inside <input type="checkbox"/> outside of the permit area?

Attach 3 complete copies of proposed permit change as it would be incorporated into the Mining and Reclamation Plan.

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commission, undertakings, and obligations therein.


 Signed - Name - Position - Date
V.P. OPERATIONS
5/17/02

Subscribed and sworn to before me this _____ day of _____, 2002.

Notary Public

My Commission Expires: _____, 20____

Attest: STATE OF _____ COUNTY OF _____

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DIVISION OF
OIL, GAS AND MINING

ASSIGNED PERMIT CHANGING UNIT

