



0006

U. S. DEPT. OF THE INTERIOR OFFICE OF SURFACE MINING Mine Site Evaluation State Program



*2/10/15/15
Incoming OK*

FFX/PP2

| | | | | | |
|--|--|---|--|--|--|
| 1. Permittee/Person CONSOLIDATION COAL CO. | | 9. Permit Number <i>Copy from</i> UT-015-015 | | 10. Permit Type PP | |
| 2. Address P.O. BOX 527 | | 11. Field Visit Date 01/08/2003 mm - dd - yyyy | | 12. Purpose <i>(2-sided)</i> O | |
| 3. City Emery | | 4. State UT | | 13. SRA Present Y | |
| 5. Zip Code 84522 | | 6. Phone Number (435) 286-2301 | | 14. Permit Status A | |
| 7. Operator Name, if Different than Permittee | | 15. Site Status AP | | 16. Facility Type BEFG | |
| 8. Mine Name EMERY DEEP | | 17. OSM Office # 140 | | 18. CCID # | |
| | | 19. Land Code F | | 20. M.S.H.A ID # 42-00079 | |
| | | 21. State Abrev. UT | | 22. County Name EMERY | |
| | | 23. AVS Permittee Entity ID Number 107373 | | 24. State Office | |

| | | | | | |
|-------------|--------------------|--|--|--|--|
| 25. Hours | | 26. Signature Block | | 27. Reviewing Official: | |
| 8.0 | a. Permit Review | <i>Henry Austin</i> | | <i>J Fulton</i> | |
| 5.0 | b. Site Visit Time | Signature: 1/23/03 | | Signature: | |
| 10.0 | c. Travel Time | Printed Name: HENRY AUSTIN ID # 116 | | Review Date: 1/24/03 | |
| 3.0 | d. Report Writing | Date: 01/23/2003 | | mm - dd - yyyy | |
| | | | | Is Supplemental MSE Page Used Y/N Y | |

Permit Type — Item 10 IP = Interim Program, PP = Permanent Program, NP = No Permit

Purpose Type Codes Item 12

| | | |
|-------------------|-------------------------|--|
| Oxx... Oversight | RFx... Reclamation Fees | CCR... Citizen Complaint Referral (non site visit) |
| Axx... Assistance | Fxx... Federal Actions | CC... Citizen Complaint (initial site visit) |
| | | CCF... Citizen Complaint Follow-up |

Joint Inspection — Item 13 A joint inspection is when a state inspector accompanies an OSM inspector any time during the review of the mine site.

Permit Status — Item 14

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|--|--|
| A... Active: Coal mining and reclamation activities occurring or permitted but not yet disturbed. | AB... Abandoned: All surface and underground coal mining activities have ceased and operator has left the site without completing reclamation as defined in 30 CFR 840.11(g) |
| IN... Inactive (Permanent Program Permit): Phase II completed or Temporary Cessation of Operations. (Interim Program Permit) Coal mining completed and reclamation activities initiated. | AB1... Bond Forfeiture: Bond forfeiture officially in process or completed, and reclamation in progress or not yet commenced. |
| BR... Bond Release: Reclamation completed and State Regulatory Authority (RA) has released all of the bond (Phase III Release). | AB2... Partially Reclaimed Forfeiture: Forfeited site where all bonds have been used to reclaim site, but site not reclaimed to Program standards. |
| | AB3... Reclaimed Forfeiture: Forfeited site that has been reclaimed to Program standards. |
| | NA... Not Applicable: When site is unpermitted. |

Site Status Codes — Item 15

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|---|--|--|
| ND... No Disturbance: No coal mining and reclamation operations have been started. | MC... Mining Complete: No mining activity on site, site regraded and awaiting phase bond release. | NS... Non-Site Visit: Status of site not determined. |
| EX... Coal Exploration: Coal exploration operations have started and where coal mining operations have not begun. | TC... Temporary Cessation: The RA has granted cessation of mining pursuant to 30 CFR 816/817.131(b). | FP... Forfeiture Pending: The RA is pursuing actions to revoke the permit, collect the performance bond(s), and/or reclamation of forfeited site is in progress. |
| AP... Active Coal Producing: Coal surface mining activities are occurring. | P1... Phase I Release: At least Phase I bond release granted for entire permitted area. For interim permits, partial bond release. | FR... Forfeited and Reclaimed: Forfeiture reclamation completed. |
| AN... Active Non-Producing: Active non-producing facility such as tippie or preparation plant. | P2... Phase II Release: At least Phase II bond release for the entire permitted area. | FO... Abandoned Site: Abandoned site that is permitted but there is no bond. |
| NM... No Mining: The Permit Status is active, site is not in Temporary Cessation, no surface coal mining activity, and site not regraded. | P3... Phase III Release: Reclamation completed and the RA has released all bond. | WC... Wildcat: Coal mining and reclamation operations have or are taking place and the activity is not covered by the required permits from the RA. |

Facility Type Codes — Item 16

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|------------------------|---|---|---|
| A... Surface | D... Ancillary (Haulroad, Conveyor, and/or Rails) | H... Exploration Permits | L... Remaining site permitted under 30 CFR 785.25 |
| B... Underground | E... Refuse and/or Impoundment | I... Notice of Intent to Explore | |
| C... Preparation Plant | F... Loading Facility and/or Tipple | J... Exempt 16 and 2/3 | |
| | G... Stockpiles | K... Government Financed Construction Exemption | |

Small Business Regulatory Enforcement Fairness Act (SBREFA) RECEIVED Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you are a small business (a business with 500 or fewer employees including those of affiliates) and wish to comment on the enforcement or compliance activities of OSM, call 1-888-REG-FAIR (1-888-734-3247).

JAN 30 2003
DIV. OF OIL, GAS & MINING
 Revised December 4, 1998

January 23, 2003

Consolidation Coal Company
P.O. Box 527
Emery, UT 84522

Emery Deep Mine
January 8, 2003
Complete, oversight inspection

Participants:

Seth McCourt, Consolidation Coal Co. (Consol)
Steve Demczak, Utah Division of Oil, Gas and Mining (DOGGM)
Henry Austin, Office of Surface Mining (OSM)

I participated in a joint, complete, oversight inspection of the Emery Deep Mine as indicate above. The DOGM/OSM Evaluation Team selected this mine for inspection during Evaluation Year 2003. The primary focus of the inspection was to evaluate offsite impacts. Weather conditions were sunny, dry, and cold; and ground conditions were moist to wet due to recent and active snow melt during the inspection. DOGM issued NOV 03-39-1-1 on Jan. 9, 2003, as a result of the inspection for coal fines from the active coal stockpile area which wind had blown off of the permit area. This violation is potentially a minor offsite impact to a land / topsoil resource. In addition, DOGM issued two NOV's during September and October, 2002, for failure to protect topsoil and vegetation in the undisturbed area. The October violation is potentially a minor offsite impact to land / topsoil / vegetation resources. DOGM issued a November 15, 2002, potential pattern of violations letter to Consol regarding the two above DOGM citations. These potential offsite impacts will be discussed with the Evaluation Team at the February, 2003, monthly meeting.

Prior to the inspection I reviewed permitting and inspection and enforcement records in both the OSM Denver office and DOGM Salt Lake City offices. DOGM inspection reports for December, 2001, and January, 2002, indicate that DOGM had determined that the mine was no longer operating in a temporary cessation status, and requested a letter from the permittee stating the same. This letter from Consol was not reviewed during the inspection. This mine has been in temporary cessation for several years. There has been extensive permitting correspondence since approximately April 2002, when Consol submitted permit amendment AM02A "Use of Explosives / 4th East Portal Blasting Plan". This entire correspondence record will not be included here, but following are some of the major actions proposed to resume active operations. DOGM issued a May 3, 2002, Division Order DO02A, stating that some of the surveys and studies originally (1990) conducted for the proposed 4th East Portal Area had become outdated and were now deficient, and required updated or new information from the permittee in 5 areas. (See May 3, 2002, DOGM Division Order noted above for 5 areas of required information. This info. includes NEPA required findings.) The 4th East Portal Area was originally approved in 1990 as a ventilation facility only, it was not approved as a coal removal and coal loadout area.

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DOGGM issued a May 7 approval of the above AM02A, East Portal Blasting Plan, stating that on the ground disturbance can only occur after all clearances have been obtained by the permittee. On May 17 Consol submitted to DOGM an "Application For Permit Change" to extend the operation of the 4th East Portal site to a coal loadout, and to provide complete portal facilities. DOGM issued a May 23 letter to Consol accepting the above permit change as AM02B, and forwarded a copy of the permit change to BLM for their review and concurrence. (It is not clear from the correspondence reviewed whether DOGM consulted OSM on the Consol May 17, 2002, "Application For Permit Change" as required by 30 CFR, 944.30 State-Federal Cooperative Agreement, Article VI, (D) Review Procedures for Permit Revisions, Amendments, or Renewals:) Consol has also submitted an "Application for Permit Change" dated December 11, 2002, to BLM to amend the layout of the mining plan which is under review. OSM will continue to review the record for compliance with the provisions of 30 CFR, 944.30.

DOGGM issued a June 3 conditional approval of Division Order DO02C ("C" is the approval of DO02A) with 3 stipulations and indication the Division Order is still in effect until DOGM makes a finding for item 5 of the Division Order that deals with construction of the Emery County Loop Road. According to Seth McCourt, Consol representative during the inspection, site disturbance began on June 11, 2002. (USFWS concurrence with the DOGM "no effect" determination for DO02C is dated June 25, 2002. See all clearances necessary above.) DOGM final approval of Division Order DO02C was issued July 12, 2002.

It does not appear from the available public record reviewed during the inspection that DOGM documented Consol's compliance with the 3 stipulations noted above, and item 5 concerning the County Loop Road, prior to site disturbance beginning on June 11, 2002. This inspection finding and a listing of documents reviewed during the inspection was FAXED to Daron Haddock of DOGM on January 14th, and was briefly discussed with the Evaluation Team during a January 16 phone conference. A written response from Mr. Haddock was requested via phone on January 21, and OSM will review DOGM's January 22, 2003, response concerning the above permitting actions and discuss within the Evaluation Team and OSM / WRCC Federal Lands staff as necessary.

When we arrived on site, Mr. McCourt immediately described the problem encountered with coal fines being wind blown off the permit area noted above. Mr. Demczak recommended we proceed to the 4th East Portal area, to investigate this problem, which we did. The permittee had contracted a large vacuum truck to begin removing the coal fines. We told the truck operators that they were probably doing more harm than good, particularly given the wet soil conditions. We also discussed removing the truck with Mr. McCourt, and indicated that Mr. Demczak would contact him with further recommendations upon discussion with DOGM technical personnel.

We walked the disturbed areas both at the 4th East Portal development and the main facilities area. General observations included: it appeared the permittee had flagged the saltgrass area for no disturbance as required by DOGM's June 3rd conditional approval of DO02C noted above; we discussed the soil salvage operations and observed the completed soil stockpile which was stable; we observed the completed spoil pile constructed from the portal excavation materials which was bermed and stable; coal was being produced and trucked to a main facility coal stockpile area.

Mr. McCourt indicated coal production began in early December (DOGM's approval of permit amendment AM02B which was the major 4th East Portal site layout, coal loadout, and coal production operations amendment, is dated December 6, 2002). Utah Division of Wildlife Resources (DWR) personnel visited the site approximately February, 2002, to determine if there were additional information needs by DWR prior to active operations resuming at the mine. Utah DWR required macroinvertebrate studies that were to be completed prior to coal removal. I did not find documentation in the record that the Utah DWR required macroinvertebrate studies were completed prior to coal removal. OSM will continue to review the record to document compliance with the Utah DWR requirement.

We observed the area that was the subject of the two DOGM NOV's noted above for failure to protect vegetation and topsoil on undisturbed areas. This area is within the approved disturbed area boundary, but was not approved to be disturbed. Vegetation is essentially gone and DOGM has directed interim (hydromulch) abatement measures until Spring 2003, and then will further determine additional abatement measures. It appears runoff from all disturbed areas is being diverted to the sediment pond. Mr. Demczak again directed Mr. McCourt to ensure / regrade the gate entrance / storage area to establish positive drainage to the sediment pond. Pond embankment contained many large (1 to 2 feet diameter) pieces of sandstone bedrock that were excavated during pond construction. We instructed Consol representatives to ensure embankment compaction according to approved pond designs, and they agreed to examine this. Apparently Consol had arranged for someone to survey the pond the week of this inspection and provide P.E. certified as-built drawings as required. Temporary culverts were being used in two locations to divert runoff to the pond. Total area approved for disturbance at the 4th East Portals is 15.7 acres.

We returned to the main facilities area and concluded our field inspection. These areas remain essentially unchanged and inactive since previous OSM oversight inspections here. We noted one of the inlets to the sediment pond closest to the portals was plugged / damaged and Mr. McCourt indicated he would arrange to have it repaired the next shift. This concluded the field inspection.

Mr. Demczak and I reviewed permitting and environmental monitoring records at the mine office including: 7/15/02 UPDES Permit modification adds pond 9 at the 4th East Portal area; all 2002 water data had been entered as required into the DOGM database; sediment pond and refuse pile inspections were current through 2002; liability insurance is current through 11/05/03; bond discussion in the DOGM 12/6/02 Final TA for the 4th East Portal lists the current bond at \$3,400,000.00, and the reclamation estimate including the new 15.7 acre disturbance is \$1,473,000.00; and the 2001 Annual Report was briefly reviewed.

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We briefly discussed the inspection findings via phone call with Mr. Tim Kirschbaum in Consol's Illinois offices. I indicated I had concerns with the DOGM permitting review / approval process for the 4th East Portals development that required further review. Blasting records were not reviewed, there were no structures of interest within one-half mile of either the blasting area or permit area. This concluded our records review.

As noted above, OSM will continue to review the DOGM permitting review and approval process for the 4th East Portals, particularly with respect to compliance with 30 CFR, Section 944.30, and completion of required DOGM stipulations prior to the June 11, 2002, initiation of site disturbance at the 4th East Portal development.

Please address any questions concerning this inspection report to Henry Austin at haustin@osmre.gov or to (303) 844-1400 x1466.