

C/015/015 Incoming
cc: Joe
Karl

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



1. Permittee/Person CONSOLIDATION COAL CO.		9. Permit Number UT-015-015	10. Permit Type PP
2. Address P.O. BOX 566		11. Field Visit Date 5/8/2012 <small>mm - dd - yyyy</small>	12. Purpose OP
3. City SESSER		14. Permit Status A	15. Site Status AP
4. State IL		16. Facility Type B	13. SRA Present Y
5. Zip Code 62884	6. Phone Number (618) 625-6850	17. OSM Office # 140	18. CCID #
7. Operator Name, if Different than Permittee		19. Land Code SF	20. M.S.H.A. ID # 42-00079
8. Mine Name EMERY DEEP MINE		21. State Abbrev. UT	22. County/Burrough EMERY
		23. AVS Permittee Entity ID Number 107373	24. State Office

25. Hours	26. Signature Block	27. Reviewing Official:								
<table border="1"> <tr><td>2.0</td><td>a. Permit Review</td></tr> <tr><td>2.0</td><td>b. Site Visit Time</td></tr> <tr><td>8.0</td><td>c. Travel Time</td></tr> <tr><td>2.0</td><td>d. Report Writing</td></tr> </table>	2.0	a. Permit Review	2.0	b. Site Visit Time	8.0	c. Travel Time	2.0	d. Report Writing	<p><i>Elizabeth Shaeffer</i> Signature:</p> <p>Elizabeth Shaeffer, ID#377 Printed Name:</p> <p>Date: 6/25/2012</p>	<p><i>W. Walker</i> Signature:</p> <p>Review Date: 6-25-12 <small>mm - dd - yyyy</small></p> <p>Is Supplemental MSE Page Used Y/N <input checked="" type="checkbox"/> Y</p>
2.0	a. Permit Review									
2.0	b. Site Visit Time									
8.0	c. Travel Time									
2.0	d. Report Writing									

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...Assistance

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

Permit Status - Item 14

A Active: Coal mining 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 - Item 15

ND No Disturbance: No coal mining and reclamation operations have been started.	MC Mining Complete: No mining activity on site, site regraded and awaiting 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 816/817:13(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 tipple 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

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

Small Business Regulatory Enforcement Fairness Act (SBREFA)
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).

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

Permittee/ Person <u>CONSOLIDATION COAL CO.</u>	Permit Number <u>UT-015-015</u>	Field Visit Date <u>5/8/2012</u>	State Program Continuation Page
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28. Performance Standard Categories

Codes: 1=Compliance, 2=Noncompliance, 3=Not Planned, 4=Not Started, 5=Noncompliance Identified Elsewhere, 6=Previously Cited, 7=Permit Defect

<p>A. Administrative</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Mining within Valid Permit 2. <input type="checkbox"/> Mining within Bonded Area 3. <input type="checkbox"/> Terms & Conditions of Permit 4. <input type="checkbox"/> Liability Insurance 5. <input type="checkbox"/> Ownership and Control 6. <input type="checkbox"/> Temporary Cessation 7. <input type="checkbox"/> AML Rec. Fees - Non-Respondent 8. <input type="checkbox"/> AML Rec. Fees - Failure to Pay <p>B. Hydrologic Balance</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Drainage Control 2. <input type="checkbox"/> Inspections & Certifications 3. <input type="checkbox"/> Siltation Structures 4. <input type="checkbox"/> Discharge Structures 5. <input type="checkbox"/> Diversions 6. <input type="checkbox"/> Effluent Limits 7. <input type="checkbox"/> Ground Water Monitoring 8. <input type="checkbox"/> Surface Water Monitoring 9. <input type="checkbox"/> Drainage - Acid-Toxic Materials 10. <input type="checkbox"/> Impoundments 11. <input type="checkbox"/> Stream Buffer Zones <p>C. Topsoil & Subsoil</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Removal 2. <input type="checkbox"/> Substitute Materials 3. <input type="checkbox"/> Storage and Protection 4. <input type="checkbox"/> Redistribution 	<p>D. Backfilling & Grading</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Exposed Openings 2. <input type="checkbox"/> Contemporaneous Reclamation 3. <input type="checkbox"/> Approximate Original Contour 4. <input type="checkbox"/> Highwall Elimination 5. <input type="checkbox"/> Steep Slopes (includes downslope) 6. <input type="checkbox"/> Handling of Acid and Toxic Materials 7. <input type="checkbox"/> Stabilization (rills and gullies) <p>E. Excess Spoil Disposal</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Placement 2. <input type="checkbox"/> Drainage Control 3. <input type="checkbox"/> Surface Stabilization 4. <input type="checkbox"/> Inspections & Certifications <p>F. Coal Mine Waste (Refuse Piles/Impoundments)</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Drainage Control 2. <input type="checkbox"/> Surface Stabilization 3. <input type="checkbox"/> Placement 4. <input type="checkbox"/> Inspections & Certifications 5. <input type="checkbox"/> Impounding Structures <p>G. Use of Explosives</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Blaster Certification 2. <input type="checkbox"/> Distance Prohibitions 3. <input type="checkbox"/> Blast Survey/Schedule 4. <input type="checkbox"/> Warnings & Records 5. <input type="checkbox"/> Control of Adverse Effects 	<p>H. Subsidence Control Plan</p> <p>I. Roads</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Road Construction 2. <input type="checkbox"/> Certification 3. <input type="checkbox"/> Drainage 4. <input type="checkbox"/> Surfacing and Maintenance 5. <input type="checkbox"/> Reclamation <p>J. Signs & Markers</p> <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Signs 2. <input type="checkbox"/> Markers <p>K. Distance Prohibitions</p> <p>L. Revegetation</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Vegetative Cover 2. <input type="checkbox"/> Timing <p>M. Postmining Land Use</p> <p>N. Other</p> <p>General Performance Category</p> <p>_____</p> <p>_____</p> <p>_____</p>
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Performance Standard Categories 30 CFR Counterparts

<p>A. Administrative 1. Valid Permit 773.11 2. Mining within Bonded Area 773.11 3. Terms & Conditions of Permit 773.17 4. Liability Insurance 800.60 5. Ownership and Control 778.13 6. Temporary Cessation 842.11(e) & §16/§17.131 7. AML Rec. Fees - Non-Respondent §70.15(b) 8. AML Rec. Fees - Failure to Pay §70.15(a)</p> <p>B. Hydrologic Balance (§16/§17.41-57) 1. Drainage Control 45 2. Inspections & Certifications 49(a)(10) 3. Siltation Structures 46 4. Discharge Structures 47 5. Diversions 43 6. Effluent Limits 42 7. Ground Water Monitoring 41(c) 8. Surface Water Monitoring 41(e) 9. Drainage - Acid - Toxic Materials 41(f) 10. Impoundments 49 11. Stream Buffer Zones 57</p> <p>C. Topsoil & Subsoil (§16/§17.22) 1. Removal 22(a) 2. Substitute Materials 22(c) 3. Storage and Protection 22(e) 4. Redistribution 22(d)</p> <p>D. Backfilling & Grading §16/§17.95-107 1. Exposed Openings §16/§17.13, 14, 15, & §23.11 & 21 2. Contemporaneous Reclamation 100 3. Approximate Original Contour 102(a)(1) 4. Highwall Elimination 102(a)(2) 5. Steep Slopes (includes downslope) 107 6. Handling of Acid & Toxic Materials 102(c) 7. Stabilization (rills and gullies) 95(b)</p>	<p>E. Excess Spoil Disposal (§16/§17.71-74) 1. Placement 71(e) 2. Drainage Control 71(f) 3. Surface Stabilization 71(g) 4. Inspections & Certifications 71(h)</p> <p>F. Coal Mine Waste (Refuse Piles/Impoundments) §16/§17.81-84 1. Drainage Control 83(a) 2. Surface Stabilization 83(b) 3. Placement 83(c) 4. Inspections and Certifications 83(d) 5. Impounding Structures 84</p> <p>G. Use of Explosives (§16/§17.61-68) 1. Blaster Certification 61(c) 2. Distance Prohibitions 61(d) 3. Blast Survey/Schedule 62-64 4. Warnings & Records 66 & 68 5. Control of Adverse Effects 67</p> <p>H. Subsidence Control Plan (§17.121-122)</p> <p>I. Roads (§16/§17.150-151) 1. Road Construction 150(c) 2. Certification 151(a) 3. Drainage 150(b)-151(d) 4. Surfacing and Maintenance 150(e)-151(d) 5. Reclamation 150(f)</p> <p>J. Signs & Markers §16/§17.11 1. Signs 11(a),(b), & (c) 2. Markers 11(a),(b),(d),(e), & (f)</p> <p>K. Distance Prohibitions (761.11)</p> <p>L. Revegetation (§16/§17.111-116) 1. Vegetative Cover 111 & 116 2. Timing 113</p> <p>M. Postmining Land Use (§16/§17.133)</p>
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Emery Deep Mine Evaluation

Utah Division of Oil, Gas, and Mining (DOGGM) Permit No. C/015/0015
Tuesday, May 8, 2012 10:30-12:00

Participants:

Elizabeth Shaeffer, Office of Surface Mining
Joe Helfrich, DOGM
Karl Houskeeper, DOGM
Steve Behling, Consolidation Coal Company
Peter Behling, Consolidation Coal Company

Background:

The purpose of this evaluation was to evaluate whether DOGM is implementing its approved regulatory program by ensuring that the Utah program is successful in preventing offsite impacts to listed or proposed threatened or endangered species by ensuring that operators follow a *Protection and Enhancement Plan* to minimize disturbances and adverse impacts to threatened and endangered species (when species are identified within the permit area) as a result of mining activities, and whether mine operators are complying with applicable regulatory and permit requirements pertaining to the minimization of adverse impacts to threatened and endangered species and their habitat during coal mining and reclamation operations.

The Federal Rules at 30 CFR 816/817.97(b) and Utah Administrative Code at R645-301-358.100 state that:

“No coal mining and reclamation operation will be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973. The operator will promptly report to the Division any state- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the Division will consult with appropriate state and federal fish and wildlife agencies and, after consultation, will identify whether, and under what conditions, the operator may proceed.”

The Division requires that each *Mining and Reclamation Plan* include a list of proposed or listed threatened or endangered species and the probability of presence in the permit area. In some circumstances, the Division may require surveys or other site-specific resource information necessary to address the respective species or habitats when the permit area or adjacent area is likely to include listed or proposed endangered or threatened species of plants or animals or their critical habitats. The Division requests that this list and site-specific resource information be updated when the operator wants to increase or change their permit area or mining practices. If a listed or proposed endangered or threatened species of plants or animals or their critical habitat is identified on the permit area, the Division consults with the appropriate State and Federal fish and wildlife agencies and the landowner to determine under what conditions the

operator may proceed with mining. These conditions may include avoiding certain areas, developing a habitat mitigation plan, animal or plant relocation, periodic surveys, or a combination of these.

Inspection:

The Team met with Steve Behling and Peter Behling of Consolidation Coal Company at the Emery Deep Mine Office. This mine has conducted numerous Threatened and Endangered (T and E) surveys due to the many significant revisions for permit expansion and construction projects. These include the 6th East Portal Transmission Line (2002), expansion of the 4th East Portal (2003), 4th East, 6th West, and 14 and 15 West Areas (2007), Full Extraction Pillar Splitting (2008), the Miller Tract (2008), and the Zero Zero North Area (2009). Additionally, a sensitive species Burrowing Owl survey was conducted in 2008 which resulted in a Wildlife Protection and Enhancement Plan for the Zero Zero North area which was incorporated into the *Mining and Reclamation Plan* in October of 2009.

As a result of these many surveys, the mine has made efforts for the protection and enhancement of these "high value habitats" by using recommended seed mixtures to create ideal habitats and retaining ponds post-mining as wildlife enhancement structures. Surveys may also require that the mining and reclamation plan be changed.

Another example of how the mine has committed to enhancing wildlife habitat is the construction of artificial burrows for burrowing owls. The mine was required to implement a *Protection and Enhancement Plan* for the owls after a sighting occurred during an environmental assessment (EA) in 2008. The burrowing owl was using an active prairie dog colony site for nesting. Burrowing owls often return to nest in the same burrow each spring after their winter migration. It was concluded that the owls could be negatively affected from expected subsidence from underground mining during their most critical life period (March through June). Fledging burrowing owls may not be mobile at the time of subsidence and could fall into cracks or be abandoned as the adults vacate the burrow.

The mine committed to monitor the area during and after subsidence to determine if adverse effects from mining had occurred. Additionally, the mine constructed seven artificial burrows within the permit area. Two of these burrows were intentionally placed in the subsidence zone so that the company could test the effects of subsidence on the burrows. The entrances to these burrows were closed to prevent owls from nesting in them during the test period. The first burrow was placed in the subsidence zone at the mound where the owl was sighted during the EA.

Impacts to endangered Colorado River Fish, including the Colorado pikeminnow, razorback sucker, humpback chub, and bonytail fish that inhabit the lower warm water reaches of the Colorado, Green, Yampa, White, and Gunnison Rivers is also a concern regarding the protection of T and E species. Currently, Utah participates in the Upper Colorado River Endangered Fish Recovery Program (established in 1988 by The Secretary of the Interior, Governors of Colorado, Wyoming, and Utah, and the Administrator of the Western Area Power Administration) as a way to offset water depletions, thereby providing a method to mitigate the impacts to endangered fish.

As part of the recovery program, calculations must be performed to determine if consumption of water from coal mining is contributing or will contribute to water depletions, thereby affecting fish habitat.

During the processing of a new permit application, a determination must be made as to the amount of water that will be depleted from the upper Colorado River Watershed as a result of the proposed coal mining activity. Existing coal mine operations have been required to revisit the water depletion calculations if a proposed change to the MRP has the potential to significantly increase the amount of depletion from the Colorado River Watershed.

The Emery Deep Mine has submitted calculations which show that water consumption from mining operations does not significantly impact the Colorado River fish or their habitat.