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State of Utah

DEPARTMENT OF NATURAL RESOURCES

BRIAN C. STEED
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

March 12, 2020

Brian Fredrickson, President
Bronco Utah Operations, LLC
P.O. Box 527
Emery, Utah 84522

Subject: Full Extraction Revision, Bronco Utah Operations, LLC, Emery Deep Mine, C/015/0015, Task #6063

Dear Mr. Fredrickson:

The Division has reviewed your application. The Division has identified deficiencies that must be addressed before final approval can be granted. The deficiencies are listed as an attachment to this letter.

The deficiencies authors are identified so that your staff can communicate directly with that individual should questions arise. The plans as submitted are denied. Please resubmit the entire application.

If you have any questions, please call me at (801) 538-5350.

Sincerely,

Steve Christensen
Coal Program Manager

SKC/sqs

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Technical Analysis and Findings

Utah Coal Regulatory Program

PID: C0150015
TaskID: 6063
Mine Name: EMERY DEEP MINE
Title: FULL EXTRACTION REVISION

General Contents

Right of Entry

Analysis:

The application does not meet the State of Utah R645 requirements for Right of Entry.

A surface ownership change must be made in the narrative (Chap 1, p. 3) to correspond with the current information shown on Surface Ownership Plate 1-1 in Section 29, the transfer of Plot 6-115-8 from Rainbow Ranch to Black Dragon Ranch.

Plate I-1 "Surface and Coal Ownership" illustrates and Appendix 1-2 "Ownership and Leasehold Interests for Surface and coal" describes the surface ownership and coal leases.

This application revises Plate I-1 to show lease to the East of State Highway 10 in Sevier County, Section 36, T23S, R 5 E, and straddling Hwy 10 in Emery County Section 30, T 23 S, R 6 E. Revised Plate I-1 also activates the SITLA lease ML51745 in Section 31, T 23 S, R 6 E where the surface is owned by Josiah Eardly. The area to be fully extracted (planned subsidence) is in T 22 S R 6 E, Sections 29, 30, 31, 32 and 33 as shown on Plate V-5. The surface land above the full extraction panels is primarily owned by William Stansfield and Bronco Coal.

Surface areas in Sections 19, 29 and 30 that are protected from pillaring and subsidence (the AVF and Creek buffer zones) are owned by Horace Petty, Trustee; J.K. Eardley; Derek Beagley; Michael L and Jodi Christensen, Black Dragon Ranch; and the Utah Department of Transportation (Hwy 10), as shown on Plate I-1.

Right of Entry and mining into federal coal was authorized in Section 5, T 23 S. R 6 E, as shown on Plate IV-2 UG Operations Plan.

The coal is owned by Bronco in all sections. A non-contiguous portion of STILA lease ML 51745 in Section 31 (outside the permit area) is also described as future mining.

Deficiencies Details:

The application does not meet the R645-301-114, Right of Entry requirements. The following deficiency must be addressed prior to final approval:

R645-301-121.100, Please change the surface ownership narrative (Chap 1, p. 3) to correspond with the current

information shown on Surface Ownership Plate 1-1 in Section 29. i.e. the transfer of Plot 6-115-8 from Rainbow Ranch to Black Dragon Ranch.

pburton

Right of Entry

Analysis:

The amendment meets the State of Utah R645-301-114 requirements for Right of Entry. Following discussions with OSMRE, it was determined that the Permittee is not required to obtain written authorization to perform subsidence mining from the surface landowner in this instance due to the lack of surface disturbance.

tmiller

Environmental Resource Information

Historic and Archeological Resource Information

Analysis:

The amendment does not meet the State of Utah R645-301-411 requirements for Historic and Archeological Resource Information.

Two cultural resource reports were submitted as part of this amendment. One of the reports detailed a survey covering the additional adjacent area to the west of the full extraction area. No subsidence is planned for this area (per phone conversation with John Gefferth on March 3, 2020) and no cultural resources were located in this area. The second report, titled Cultural Resource Inventory of Bronco Utah Operation's Emery Full Extraction (UDSH Project No. U19MZ0029 and Org. Project No. 19-007) covers not only the proposed full extraction area, but also covers an area to the south on a mix of BLM, SITLA, and private land that is not part of the current proposal. The area covered in this proposal was found to contain 8 cultural resources with 3 of them being eligible for the National Register of Historic Places. Site 42EM5252 was determined eligible under Criterion A but was determined unlikely to be adversely affected by the proposal. The report states that the structures of site 42EM5254 that qualify it for the National Register lie mostly outside the area of subsidence, however, after reviewing the proposal maps, the full extent of the site lies within the area of potential subsidence. As such, site 42EM5254 must be protected by a buffer area or, as is stated in the report, if the landowner follows through with his plan to raze the structures, the site must be re-evaluated for its eligibility for the National Register. Regarding site 42EM5249, the report recommends additional testing, prior to subsidence, to verify or refute its eligibility for the National Register. This testing, or additional protective measures such as a buffer area, must be completed prior to approval. These measures must be implemented prior to seeking concurrence from SHPO.

Deficiencies Details:

The amendment does not meet the State of Utah R645-301-411 requirements for Historic and Archeological Resource Information. The following deficiency must be addressed prior to final approval:

R645-301-411.142: The Permittee must provide evidence of clearance by the SHPO. Concurrence from SHPO cannot be sought by DOGM until the issues regarding sites 42EM5254 and 42EM5249 are satisfactorily resolved.

tmiller

Operation Plan

Subsidence Control Plan Renewable Resource

Analysis:

The application does not meet the State of Utah R645 requirements for Pre-subsidence Survey.

An Addendum to Appendix V-8 discusses sink holes located on property in T22S, R6E, Sec 31 S/2 SE1/4 of Section 31, currently owned by William Stansfield. The Addendum provides a memo excerpt from Rich White's report, regarding the sink holes, but does not state the location of the holes or provide a map showing the location. Please add the location of the sink holes on a map to the Addendum to Appendix V-8. Identify the location by Township, Range and 1/41/4 Section and/or include the maps that accompanied Rich Whites memo with the Township, Range and Section noted.

Deficiencies Details:

The application does not meet the requirements of R645-301-525, Pre-subsidence survey. The following deficiency must be addressed prior to final approval:

R645-301-525, Please add the location of the sink holes on a map to the Addendum to Appendix V-8. Identify the location by Township, Range and 1/4/1/4 Section and/or include the maps that accompanied Rich Whites memo with the Township, Range and Section noted.

pburton

Fish and Wildlife Protection and Enhancement Plan

Analysis:

The amendment does not meet the State of Utah R645-301-333 requirements for Fish and Wildlife Protection and Enhancement Plan. Chapter VIII, Section VIII.B.4, page 17a of the MRP states that "a burrowing owl survey will be conducted prior to full extraction mining in areas where planned subsidence is contemplated per Ch. V, Plate V-5." In previous actions by the mine these surveys were conducted in the Miller Tract section of the permit area which resulted in the discovery of active burrowing owl nesting sites. A protection and enhancement plan was implemented which included the installation of seven artificial burrows in and around the proposed subsidence area. These reports can be found in Confidential Volume 2 of the MRP. Confidential Plate 10-1 indicates the Miller Tract area as both active prairie dog and burrowing owl habitats. The same map also shows active prairie dog habitat in the now-proposed full extraction area of the current application. Plate V-5 of the amendment indicates planned subsidence under multiple areas designated on Confidential Plate 10-1 as active prairie dog towns. Following consultation with the U.S. Fish and Wildlife Service and the Utah DWR, it was determined that annual monitoring for burrowing owls, including an assessment of the impacts of subsidence on individual burrows following subsidence events, would be the best plan moving forward. This monitoring requirement does not need to include a commitment to perform mitigation in the event burrowing owls are detected in the subsidence zone as a result of the monitoring.

Deficiencies Details:

The amendment does not meet the State of Utah R645-301-333 requirements for Fish and Wildlife Protection and Enhancement Plan. The following deficiency must be addressed prior to final approval:

R645-301-333: The Permittee must implement an annual monitoring plan for burrowing owls. This plan must also include observing impacts to the structure and integrity of individual burrows.

tmiller

Hydrologic Ground Water Monitoring

Analysis:

The application does not meet the State of Utah R645 requirements for Ground Water Monitoring.

Under Task ID 5936, the Permittee was required to add the Bryant Well to the water monitoring table in the MRP. (Table VI-17) This was not updated and is the previous deficiency is still outstanding.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Ground Water Monitoring. The following deficiency must be addressed prior to final approval:

R645-301-731.210 The Permittee must provide an updated water monitoring plan to include the monitoring of the Bryant Well (MRP Table VI-17).

adaniels

Maps Monitoring and Sampling Locations

Analysis:

The application meets the State of Utah R645 requirements for Maps, Monitoring, and Sampling Locations.

Plate VI-4 of the MRP was updated as previously requested to indicate the correct status of wells that had been re-activated within the water monitoring plan.

adaniels