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NON-FEDERAL

Permit Number ACT/015/025

*Original to
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November 2, 1995*

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
(801) 538-5340

Permit Binder

This permit, ACT/015/025, is issued for the state of Utah by the Utah Division of Oil, Gas and Mining (Division) to:

Co-Op Mining Company
P. O. Box 1245
Huntington, Utah 84528
(801) 381-2450

for the Bear Canyon Mine. A collateral bond (Irrevocable Letter of Credit) is filed with the Division in the amount of \$525,000 payable to the State of Utah, Division of Oil, Gas and Mining. The Division must receive a copy of this permit signed and dated by the permittee.

- Sec. 1 STATUTES AND REGULATIONS** - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.
- Sec. 2 PERMIT AREA** - The permittee is authorized to conduct underground coal mining activities on the following described lands within the permit area at the Bear Canyon Mine, situated in the state of Utah, Emery County, and located:

Township 16 South, Range 7 East, SLBM

- Section 14: S1/2
Section 23: E1/2, E1/2 NW1/4, E1/2 SW1/4
Section 24: All land West of North-South Trending Bear Canyon Fault
Section 25: All land West of North-South Trending Bear Canyon Fault
Section 26: NE1/4 NE1/4, NW1/4 NE1/4, N1/2 SW1/4 NE1/4 and the access/haul road and topsoil storage area as shown on Plate 2-1 of the Mining and Reclamation Plan

This legal description is for the permit area of the Bear Canyon Mine. The permittee is authorized to conduct underground coal mining activities connected with mining on the foregoing described property subject to the conditions of the leases, the approved mining plan, including all conditions and all other applicable conditions, laws and regulations.

Sec. 3 COMPLIANCE - The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.

Sec. 4 PERMIT TERM - This permit becomes effective on November 2, 1995 and expires on November 2, 2000.

Sec. 5 ASSIGNMENT OF PERMIT RIGHTS - The permit rights may not be transferred, assigned or sold without the approval of the Director, DOGM. Transfer, assignment or sale of permit rights must be done in accordance with applicable regulations, including but not limited to 30 CFR 740.13{e} and R645-303.

Sec. 6 RIGHT OF ENTRY - The permittee shall allow the authorized representative of the DOGM, including but not limited to inspectors, and representatives of the OSMRE, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:

- (a) Have the rights of entry provided for in 30 CFR 840.12, R645-400-110, 30 CFR 842.13 and R645-400-220;
- (b) Be accompanied by private persons for the purpose of conducting an inspection in accordance with R645-400-210 and 30 CFR 842, when the inspection is in response to an alleged violation reported to the Division by the private person.

Sec. 7 SCOPE OF OPERATIONS - The permittee shall conduct underground coal mining activities only on those lands specifically designated as within the permit area on the maps submitted in the approved plan and approved for the term of the permit and which are subject to the performance bond.

Sec. 8 ENVIRONMENTAL IMPACTS - The permittee shall minimize any adverse impact to the environment or public health and safety through but not limited to:

- (a) Any accelerated monitoring to determine the nature and extent of noncompliance and the results of the noncompliance;
- (b) Immediate implementation of measures necessary to comply; and
- (c) Warning, as soon as possible after learning of such noncompliance,

any person whose health and safety is in imminent danger due to the noncompliance.

Sec. 9 DISPOSAL OF POLLUTANTS - The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

Sec. 10 CONDUCT OF OPERATIONS - The permittee shall conduct its operations:

- (a) In accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and
- (b) Utilizing methods specified as conditions of the permit by DOGM in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 11 EXISTING STRUCTURES - As applicable, the permittee will comply with R645-301 and R645-302 for compliance, modification, or abandonment of existing structures.

Sec. 12 RECLAMATION FEE PAYMENTS - The operator shall pay all reclamation fees required by 30 CFR Part 870 for coal produced under the permit, for sale, transfer or use.

Sec. 13 AUTHORIZED AGENT - The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.

Sec. 14 COMPLIANCE WITH OTHER LAWS - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq), and the Clean Air Act (42 USC 7401 et seq), UCA 26-11-1 et seq, and UCA 26-13-1 et seq.

Sec. 15 PERMIT RENEWAL - Upon expiration, this permit may be renewed for areas within the boundaries of the existing permit in accordance with the Act, the approved Utah State Program and the Federal Lands Program.

- Sec. 16 CULTURAL RESOURCES** - If during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify the DOGM. DOGM, after coordination with OSMRE, shall inform the permittee of necessary actions required. The permittee shall implement the mitigation measures required by DOGM within the time frame specified by DOGM.
- Sec. 17 APPEALS** - The permittee shall have the right to appeal as provided for under R645-300.
- Sec. 18 SPECIAL CONDITIONS** - There are special conditions associated with this permitting action, as described in Attachment A.

The above conditions (Secs. 1-18) are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them. These conditions may be revised or amended, in writing, by the mutual consent of DOGM and the permittee at any time to adjust to changed conditions or to correct an oversight. DOGM may amend these conditions at any time without the consent of the permittee in order to make them consistent with any federal or state statutes and any regulations.

THE STATE OF UTAH

By: Jamell P. Braptor for J.W. Co.

Date: 11/2/95

I certify that I have read, understand and accept the requirements of this permit and any special conditions attached.

Wendell Owen
Authorized Representative of the Permittee

Date: 11/14/95

ATTACHMENT A
Special Conditions

1. Division Order, Informal Hearing, Cause No. ACT/015/025, Dated May 20, 1991

Co-Op Mining Company must comply with all monitoring requirements and restrictions contained within the Division Order, Informal Hearing, Cause No. ACT/015/025, dated May 20, 1991, as these requirements and restrictions apply to the present permit and are made a part of the permit terms at issuance.

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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IN THE MATTER OF THE	:	ORDER
PERMIT RENEWAL FOR THE	:	
CO-OP MINING COMPANY'S	:	INFORMAL HEARING
BEAR CANYON MINE,	:	CAUSE NO. ACT/015/025
EMERY COUNTY, UTAH	:	

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On February 5, 1991, the Division held an Informal Hearing regarding the above-captioned matter in Castle Dale, Utah. The hearing was transcribed. The following individuals were present and participated in the informal hearing.

Presiding:	Dianne R. Nielson, Director Division of Oil, Gas and Mining
For the Protestants:	Darrel Leamaster, District Manager Castle Valley Special Service District
	Menco Copinga, President North Emery Water Users Association
	Jeffrey Appel, Esq. Haley and Stolebarger Attorney for North Emery Water Users Association
	Mrs. Varden Willson (on behalf of Varden Willson) Huntington-Cleveland Irrigation Company
	Scott Johansen, Esq. Attorney for Huntington City
	S. Bryce Montgomery Consultant for Castle Valley Special Service District

For the Respondent: Kimberley C. Mangum
Consultant for Co-op Mining Company

Bill Stoddard
Co-op Mining Company

Carl E. Kingston, Esq.
Attorney for Company

Wendell Owen
Co-op Mining Company

For the Division of
Oil, Gas and Mining: Thomas A. Mitchell, Esq.
Assistant Attorney General

Pamela Grubaugh-Littig
Permit Supervisor

Thomas Munson
Reclamation Hydrologist

Other Appearances: Grant Wilson
Huntington City

In accordance with arrangements made by the Protestants following the hearing, Jeffrey W. Appel was designated the representative of all the Protestants for the purposes of notice and response regarding this matter.

NOW THEREFORE, the Division of Oil, Gas and Mining (Division) having fully considered the protests and responses of the parties, as filed prior to and as part of the hearing, and the supplements to the record, as well as the actions of the Division as represented in Division records, now makes and enters its Order as follows:

FINDINGS OF FACT

1. The Informal Hearing was properly scheduled and noticed

in accordance with the Utah Administrative Procedures Act (Utah Code Ann. § 63-46b-1 et seq.) and the Utah Coal Mining and Reclamation Act (Utah Code Ann. § 40-10-1 et seq.).

2. Additional extensions provided for the purpose of supplementing the record in the Informal Hearing were properly noticed and granted.

3. Inspection and enforcement records for the duration of mining operations at the Bear Canyon Mine indicate that Co-op Mining Company (Co-op) has been cited with Notices of Violation (NOV), Cessation Orders (CO), and Failure to Abate Cessation Orders (FTA CO). However, Co-op Mining Company has abated or is within the designated timeframes for abating enforcement actions. Co-op Mining Company has not established a pattern of willful and knowing violations. Co-op Mining Company is not subject to permit revocation or denial at this time.

4. Geologic and hydrologic evidence provided by the parties suggests that the potentiometric surface of the Blackhawk-Star Point aquifer is below the level of current mining in the Bear Canyon Mine.

5. The necessary information is available for evaluation of the hydrology within the existing Bear Canyon Mine workings.

6. There is no evidence that mining within the presently permitted coal seam in the Bear Canyon Mine will impact the potentiometric surface of the Blackhawk-Star Point aquifer. There is evidence that piping of water, as described below in Paragraph 7, may have influenced the quantity of flow from

outcroppings at or near Big Bear or Birch Springs in the recent past.

7. Within the Bear Canyon Mine, water has been piped from a seep at the north end of the mine workings to the mine entrance, where it discharged in accordance with the permit. However, in the past, excess flow in that line was pumped or allowed to flow into abandoned mine workings located at the south end of the mine, directly north of Big Bear Spring and Birch Spring. Co-op has replaced a portion of that pipe with larger diameter pipe to enable the line to better accommodate flow from the mine. Co-op has also installed a meter on the line which will measure any overflow into the abandoned workings. There is some evidence that this past diversion of flow into the old workings may have influenced the quantity of water seeping from outcrops above Big Bear and Birch Springs.

8. There is insufficient geologic and hydrologic evidence available to determine the impacts of mining, in the proposed Bear Canyon Lease Extension (Lease Extension) to the north of the existing Bear Canyon Mine, on the quantity and quality of water in Big Bear Spring and Birch Spring.

9. There is insufficient evidence to know the location of the potentiometric surface of the Blackhawk-Star Point aquifer to the north of the existing Bear Canyon Mine workings.

10. There are other mining operations on the northern extensions of the fracture and fault systems which may control surface water and groundwater flow from the springs below the

permit area. However, evidence to determine specific impacts of those operations on groundwater feeding these springs is inconclusive.

11. In order to evaluate the current probable hydrologic impact of mining adjacent to and in the proposed Lease Extension to the north of the currently permitted Bear Canyon Mine, additional monitoring wells must be drilled and sampled to evaluate the location, quantity, and quality of the Blackhawk-Star Point aquifer.

12. Sampling of Big Bear Spring and Birch Spring is necessary to evaluate the current probable hydrologic impact of mining adjacent to and in the proposed Lease Extension north of the presently permitted Bear Canyon Mine, as well as to provide complete monitoring data from existing operations in the Bear Canyon Mine. Sampling should include both quantity and quality of spring flow including sampling at times when the spring is not overflowing the lock box. This will necessitate establishing arrangements to allow Co-op Mining Company or a third party to unlock the box at regular intervals for sampling purposes.

13. Evidence concerning the increased sulfate content in Big Bear Spring does not indicate the cause of the increase.

14. Evidence of the impact of drought conditions over the last five years, as well as the impacts of earthquakes in the vicinity of the Bear Canyon Mine, have not been fully evaluated by the parties in terms of the potential effect on the past and current quantity of water from Big Bear and Birch Springs.

15. Technical information and arguments support the extension of geologic structures which may control groundwater flow north of and within the Bear Canyon Mine. However, the hydrologic evidence is conflicting and insufficient to support the "reasonable likelihood" of adverse impacts of mining on water quantity and quality at Big Bear and Birch Springs.

CONCLUSIONS OF LAW

EXISTING PERMIT AREA

16. Pursuant to Utah Admin. R. 614-300-154, as to those lands specifically designated as the permit area within the permittee's original permit application, and approved in accordance with R. 614-300-151, the permittee has a right of successive renewal.

17. The right to successive renewal is granted pursuant to Utah Code Ann. § 40-10-9(4)(a). The terms of this statutory right are included and made a part of R. 614-303-230.

18. Both by statute and by rule the burden of proof rests upon the opponent to permit renewal to demonstrate the specific exceptions set forth by statute and rule for denying permit renewal.

19. Protestants have set forth factual contentions to support their allegations that four of the five statutory exemptions to renewal are present. The Division concludes that protestants have failed to support these allegations.

NEW PERMIT AREA

20. Pursuant to Utah Code Ann. § 40-10-9(4)(b) an extension of a permit area as a portion of the application for renewal of a valid permit is subject to the full standards applicable to new applications under the statute. Pursuant to Utah Code Ann. § 40-10-11(1) the applicant for a permit, or revision of a permit, shall have the burden of establishing that his application is in compliance with all the requirements of the code.

21. The Division concludes that Co-op has not met its burden of proof with regard to demonstrating the probable hydrological impact of any extension beyond its present permit boundaries.

ORDER

22. The Permit for Co-op Mining Company's existing mining operation at the Bear Canyon Mine (ACT/015/025) is hereby renewed for a period of five years from the date of expiration of the prior permit. This permit renewal provides for operations of the Bear Canyon Mine to continue to the extent that those operations are conducted within the existing permit area and the disturbed areas as they existed under the prior permit. These operations will be in accordance with the statute and rules, and subject to orders or other actions of the Division governing the operations under this permit.

23. The proposed permit application to enter and mine an adjacent Federal Coal lease to the north of the existing mine

(Lease Extension) is denied.

24. No additional coal mining and reclamation operations at the Bear Canyon Mine beyond those currently approved in the permit will be considered for approval by the Division until the Probable Hydrologic Impact (PHC) analysis has been revised, based on additional drilling and monitoring of groundwater and surface water flow, quantity, and quality. This limitation in terms of mining and reclamation operations includes but is not limited to any mining in coal seams above or below the currently-approved mine workings within the permit area, as well as any mining outside the current permit area.

25. Any future proposal to mine beyond the existing permit area or in coal seams above and below the current workings will be treated as a request for permit revision, with the opportunity for public comment.

26. The requirements for additional drilling and monitoring of the surface and subsurface hydrology will be determined by the Division. At a minimum, this will include drilling and monitoring 3 wells, located within and adjacent to the current permit area, for the purpose of evaluating the hydrologic gradient and water quality. Drilling of monitoring wells will be the requirement of and at the expense of Co-op Mining Company. The existing monitoring program for Big Bear and Birch Springs will be revised to include water quantity and quality measurements from lock boxes. Data will be provided to the Division and the appropriate water user associations. Such

monitoring will be at the expense of Co-op Mining Company and may be conducted by Co-op or by a third party, as agreed upon by the Protestants and Co-op Mining Company, in order to ensure access to the lock boxes at the Big Bear and Birch Springs.

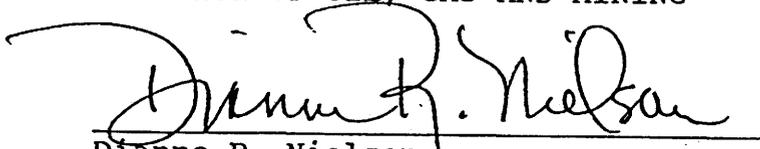
27. Drainage or pumping of in-mine water to the old mine working north of the Big Bear and Birch Springs will be controlled and monitored as stipulated by the Division, with revisions of that procedure only as directed by the Division and with the prior approval of the Division.

28. The requirements of this Order which are applicable to the present permit are included and made a part of the permit terms at issuance of the renewed permit for the Bear Canyon Mine.

29. Prior to any approval of coal mining and reclamation operations beyond the existing authorized operations, Co-op Mining Company must demonstrate and the Division must find that said operations have been designed to prevent material damage to the hydrologic balance outside of the permit area, in accordance with Utah Code Ann. § 40-10-10(2)(c) and Utah Admin. R. 614-300-133.400.

ORDERED and issued this 20th day of May, 1991.

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING



Dianne R. Nielson
Director

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing ORDER to be mailed first class, postage prepaid, this 20th day of May, 1991, to the following:

Mr. Darrel V. Leamaster
Castle Valley Special Service District
P.O. Box 877
Castle Dale, Utah 84513

Mr. Menco Copinga
North Emery Water Users Association
Box 418
Elmo, Utah 84521

Mr. Varden Willson
Huntington-Cleveland Irrigation Company
55 North Main
Huntington, Utah 84528

Mr. Carl Kingston, Esq.
53 West Angelo Avenue
P.O. Box 15809
Salt Lake City, Utah 84115

Mr. Scott Johansen, Esq.
Huntington City Attorney
P.O. Box 1099
Castle Dale, Utah 84513

Mr. Jeffrey Appel, Esq.
Haley & Stolebarger
10th Floor Walker Center
175 South Main
Salt Lake City, Utah 84111-1956


Lynda Jensen