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State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

Ted Stewart  
Executive Director

James W. Carter  
Division Director

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340  
801-359-3940 (Fax)  
801-538-5319 (TDD)

November 2, 1995

Wendell Owen  
Co-Op Mining Company  
P.O. Box 1245  
Huntington, Utah 84528

Re: Permit Renewal, Bear Canyon Mine, Co-Op Mining Company, ACT/015/025-95H, Folder #3, Emery County, Utah

Dear *Wendell*  
Mr. Owen.

The permit renewal for the Bear Canyon Mine is approved. The Division acknowledges that pursuant to R645-300-154, the original permit issued by the Division, and subsequently renewed on May 20, 1991 carries with it the right of successive renewal within the approved boundaries of the existing permit in accordance with R645-303-230. Opponents of the renewal have the burden of proof to provide evidence to deny the renewal, but no case was established.

The Decision Document is enclosed for your information.

Very truly yours,

A handwritten signature in cursive script that reads "Lowell P. Braxton".

for  
James W. Carter  
Director

Enclosure

cc: James Fulton, OSM, WRCC  
Jeffrey W. Appel, Esq. (Collard, Appel, Warlaumont)  
J. Craig Smith (Nielsen & Senior)  
Lowell P. Braxton  
Pamela Grubaugh-Littig  
Daron Haddock  
Joe Helfrich  
Price Field Office



PERMIT RENEWAL

Bear Canyon Mine

Co-Op Mining Company

ACT/015/025

November 2, 1995

Contents

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- \* Informal Conference Requests
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- \* Affidavit of Publication
- \* 510 (c) Clearance, memo dated November 2, 1995

## PERMIT RENEWAL

Administrative Overview

Bear Canyon Mine

Co-Op Mining Company

ACT/015/025

November 2, 1995

### Background

The Bear Canyon Mine is a mine permitted by Co-Op Mining Company in Huntington Canyon area. Room and pillar mining occurs in the Bear Canyon seam (middle seam) the Hiawatha seam (lower seam) and the recently permitted Tank Seam.

### Public Notice

The applicant published notice for the five-year permit renewal for four consecutive weeks in the Emery County Progress ending on September 12, 1995. A joint objection by Castle Valley Special Service District, North Emery Water Users Association and Huntington-Cleveland Irrigation Company (collectively "Water Users") was filed to the renewal of Co-Op Mining Company's permit and requested an informal conference on October 12, 1995. On October 19, 1995, notice was sent by the Division that an informal conference was scheduled to be held on November 8, 1995. On October 31, 1995, the objectors (the Water Users) filed a request that the informal conference originally scheduled for November 8, 1995 be postponed for a minimum of ninety days.

### Recommendation for Approval

The Division made a decision to approve the permit renewal for five years based on the fact that 1) The terms and conditions of the existing permit are being satisfactorily met; 2) The present coal mining and reclamation operations are in compliance with the environmental protection standards of the State Program; 3) The renewal does not substantially jeopardize the operator's continuing ability to comply with the State Program on existing permit areas; 4) The operator has provided evidence of having liability insurance and a performance bond which will be in effect for the operation and will continue in full force and effect.

Administrative Overview  
Permit Renewal  
Bear Canyon Mine  
Page 2

The Division acknowledges that pursuant to R645-300-154, the original permit issued by the Division on October 30, 1985 and renewed on May 20, 1991 with two conditions carries with it the right of successive renewal, within the approved boundaries of the existing permit in accordance with R645-303-230 (Permit Renewals).

The opponents of the renewal have the burden of proof to provide evidence to deny the renewal but no case was established. Pursuant to R645-303-236, any person having an interest which is or may be affected by this decision to approve the renewal of the Bear Canyon Mine permit have to right to administrative and judicial review set forth in R645-300-200.

PERMIT RENEWAL

Chronology

Bear Canyon Mine

Co-Op Mining Company

ACT/015/025

November 2, 1995

- |                  |   |
|------------------|---|
| June 16, 1995    | Co-Op Mining Company submits permit renewal application.  |
| August 3, 1995   | Division issues Determination of Completeness.  |
| August 29, 1995  | Co-Op Mining Company initiates public notice for four consecutive weeks.  |
| October 12, 1995 | Castle Valley Special Service District, North Emery Water Users Association and Huntington-Cleveland Irrigation Company, (collectively "Water Users") submit joint objections to the renewal of Co-Op Mining Company's permit renewal and request an informal conference. |
| October 19, 1995 | Notice was sent by the Division that an informal conference would be held on November 8, 1995.  |
| October 31, 1995 | Water Users request that the informal conference originally scheduled for November 8, 1995 be postponed for a minimum of ninety days.   |
| November 2, 1995 | Renewal of the Bear Canyon Mine permit.   |

FINDINGS

FIVE-YEAR RENEWAL

Co-Op Mining Company

Bear Canyon Mine

ACT/015/025

Emery County, Utah

November 2, 1995

1. The terms and conditions of the existing permit are being satisfactorily met. (R645-303-233.110)
2. The present coal mining and reclamation operations are in compliance with the environmental protection standards of the State Program. (R645-303-233.120)
3. The requested renewal does not substantially jeopardize Co-Op Mining Company's continuing ability to comply with the State Program on the existing permit area. (R645-303-233.130)
4. The operator has provided evidence of having liability insurance (Federal Insurance Company, Policy #SLC950019, effective through January 1, 1996) (R645-303-233.140)
5. The operator has provided an Irrevocable Letter of Credit as reclamation surety (issued by West One Bank, ILOC #1055 in the amount of \$525,000) which is in effect for the operation and will continue in full force and effect for the period of renewal. (R645-303-233.150)

NON-FEDERAL

Permit Number ACT/015/025

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

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: Lawell P. Braxton 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.

\_\_\_\_\_  
Authorized Representative of the Permittee

Date: \_\_\_\_\_

**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

---oo0oo---

IN THE MATTER OF THE  
PERMIT RENEWAL FOR THE  
CO-OP MINING COMPANY'S  
BEAR CANYON MINE,  
EMERY COUNTY, UTAH

:  
:  
:

ORDER  
INFORMAL HEARING  
CAUSE NO. ACT/015/025

---oo0oo---

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.

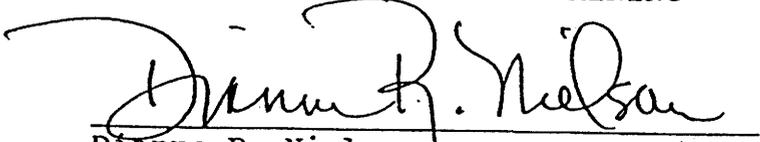
27. Drainage or pumping of in-mine water to the old mine working north of the Big Bear and Birch Springs will be controlled and monitored as stipulated by the Division, with revisions of that procedure only as directed by the Division and with the prior approval of the Division.

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

JEFFREY W. APPEL (3630)  
JAMES L. WARLAUMONT (3386)  
BENJAMIN T. WILSON (5823)  
COLLARD, APPEL & WARLAUMONT, L.C.  
1100 Boston Building  
9 Exchange Place  
Salt Lake City, Utah 84111  
Telephone: (801) 532-1252

**FILED**

OCT 31 1995

SECRETARY, BOARD OF  
OIL, GAS & MINING

Attorneys for Castle Valley  
Special Service District

J. Craig Smith, Esq.  
David B. Hartvigsen, Esq.  
NIELSEN & SENIOR  
1100 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111

Attorneys for North Emery Water Users Association  
and Huntington-Cleveland Irrigation Company

BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

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IN THE MATTER OF THE FIVE-YEAR )  
PERMIT RENEWAL FOR THE BEAR )  
CANYON MINE, CO-OP MINING )  
COMPANY, EMERY COUNTY, UTAH )

JOINT REQUEST FOR  
POSTPONEMENT OF  
INFORMAL CONFERENCE

Cause No. ACT/015/025

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Castle Valley Special Service District, North Emery Water Users Association and Huntington-Cleveland Irrigation Company (collectively, "Objectors"), by and through their respective attorneys, Jeffrey W. Appel of Collard, Appel & Warlaumont, and Craig Smith of Nielsen & Senior, hereby request that the informal conference scheduled by the Division of Oil, Gas and Mining ("DOGM") for November 8, 1995, be postponed. In furtherance of that request, they state the following:

1. On October 12, 1995, Objectors filed Joint Objections to Co-Op Mining Company's five year permit renewal for the Bear Canyon Mine.

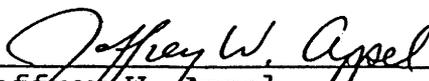
2. On October 19, 1995, notice was sent by the DOGM that an informal conference would be held on November 8, 1995.

3. In order to fully and adequately prepare for the informal conference, Objectors must, among other tasks, undertake a thorough review of the DOGM file, the documents produced by Co-Op, acquire documents and factual background from Co-Op and their experts through discovery and retain experts for their own purposes. In view of the importance of this issue to Objectors, a minimum postponement of ninety (90) days is requested.

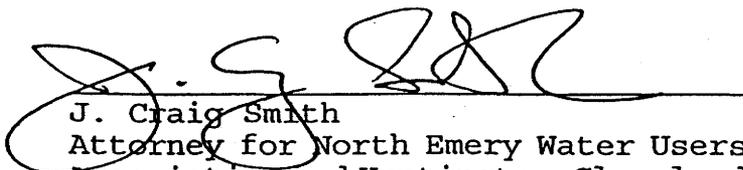
WHEREFORE, Objectors request that the informal conference originally scheduled for November 8, 1995, be postponed for a minimum of ninety days.

Respectfully submitted this 31<sup>st</sup> day of October, 1995.

COLLARD, APPEL & WARLAUMONT

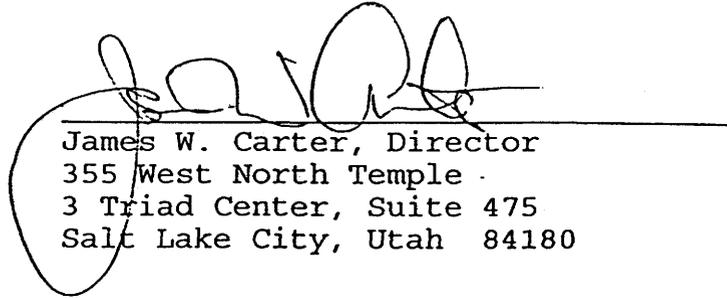
  
\_\_\_\_\_  
Jeffrey W. Appel  
Attorney for Castle Valley Special  
Service District

NIELSEN & SENIOR

  
\_\_\_\_\_  
J. Craig Smith  
Attorney for North Emery Water Users  
Association and Huntington-Cleveland  
Irrigation Company

So ordered this 1<sup>st</sup> day of November, 1995.

DIVISION OF OIL, GAS AND MINING



James W. Carter, Director  
355 West North Temple  
3 Triad Center, Suite 475  
Salt Lake City, Utah 84180

CERTIFICATE OF SERVICE

I hereby certify that on the 31<sup>st</sup> day of October, 1995, I caused a true and correct copy of the foregoing Joint Request for Postponement of Informal Conference to be mailed, postage pre-paid, to the following:

Wendell Owen  
Co-Op Mining Company  
P.O. Box 1245  
Huntington, Utah 84528

Carl E. Kingston, Esq.  
3212 South State Street  
Salt Lake City, Utah 84115

F. Mark Hansen, Esq.  
341 South Main, Suite 406  
Salt Lake City, Utah 84111

Thomas A. Mitchell, Esq.  
Assistant Attorney General  
Division of Oil, Gas and Mining  
355 West North Temple  
3 Triad Center, Suite 475  
Salt Lake City, Utah 84180

Wendell Owen

JEFFREY W. APPEL (3630)  
BENJAMIN T. WILSON (5823)  
COLLARD, APPEL & WARLAUMONT, L.C.  
1100 Boston Building  
9 Exchange Place  
Salt Lake City, Utah 84111  
Telephone: (801) 532-1252

Attorneys for Castle Valley  
Special Service District

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OCT 12 1995  
DIV. OF OIL, GAS & MINING

J. CRAIG SMITH (4143)  
DAVID B. HARTVIGSEN (5390)  
NIELSEN & SENIOR, P.C.  
1100 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 532-1900

Attorneys for North Emery Water Users Association  
and Huntington-Cleveland Irrigation Company

IN AND BEFORE THE UTAH STATE DIVISION  
OF OIL, GAS, AND MINING

<hr/>		
IN RE: 5-YEAR PERMIT RENEWAL,	)	OBJECTIONS TO
CO-OP MINING COMPANY,	)	PERMIT RENEWAL AND
BEAR CANYON MINE,	)	REQUEST FOR
EMERY COUNTY, UTAH	)	INFORMAL CONFERENCE
	)	
	)	ACT/015/025
	)	
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Castle Valley Special Service District, North Emery Water Users Association and Huntington-Cleveland Irrigation Company, (collectively "Water Users") as parties adversely affected by the proposed permit renewal to mine the Bear Canyon Mine (ACT/015/025), by and through counsel, hereby submit their objections to the renewal of Co-Op Mining Company's ("Co-Op's") permit and request an informal conference.

6. Water Users request an inspection of the operations with their experts and a review of all data accumulated by Co-Op, whether submitted to the Division of Oil, Gas and Mining or not.

7. The amount of insurance, letters of credit and performance bonds are insufficient to cover the potential liability of Co-Op for damage to Water Users' water supply and sources.

8. Co-Op's mining operations in the past have had, and if allowed will continue to have, hydrologic consequences outside the permit area by adversely and permanently impacting water quantity and quality flowing from Big Bear Canyon and Birch Springs.

SUMMARY OF ISSUES TO BE RAISED AT INFORMAL CONFERENCE

In addition to the issues raised above, Water Users will discuss the following issues at the conference.

1. Water Users intend to present evidence, including expert testimony, that continued mining operations will adversely impact water quantity and quality in the aquifers supporting Big Bear Canyon and Birch Springs.

2. Water Users intend to present evidence that Co-op Mining has repeatedly violated the terms and conditions of its permit and state program standards and that it has acted with disregard to Water Users' welfare.

3. Water Users intend to argue that the operations of Co-Op have had adverse hydrologic impact, have resulted in a modification of the historic water flow patterns tributary to the water sources and that they have interfered with historic flow patterns of water sources of Water Users.

4. Water Users intend to argue that the existing permit

contains inadequate safeguards to ensure protection of the water sources after mining has ceased.

5. Water Users intend to argue that pollution of water sources of the Water Users is created by the mining operations of Co-Op and that inadequate safeguards exist to prevent this.

6. Water Users intend to argue Co-Op Mining is not entitled to an automatic five-year renewal or, at a minimum, that the permit must be changed or modified, if it is granted at all.

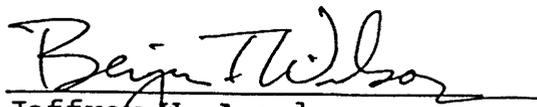
7. Water Users intend to argue that additional test wells, drill holes and monitoring methodology and equipment should be emplaced to ensure protection of the water sources and compliance with state and federal law and regulation.

8. Water Users intend to argue that if renewal is allowed, that the permit be changed or modified to include adequate provisions for maintenance, testing, exploration, protection and remediation, and include additional terms and conditions designed to protect and provide for immediate replacement of water sources if necessary.

DATED this 12<sup>th</sup> day of October, 1995.

COLLARD, APPEL & WARLAUMONT

NIELSEN & SENIOR

  
Jeffrey W. Appel  
Benjamin T. Wilson  
Attorneys for Castle Valley  
Special Service District

  
J. Craig Smith  
David B. Hartvigsen  
Attorneys for North Emery  
Water Users Association  
and Huntington-Cleveland  
Irrigation Company

## OBJECTIONS

The grounds for objection are as follows:

1. Water Users have a vested right to use the water of springs located in close proximity to Co-Op's mining operations, including Big Bear Canyon and Birch Springs, for culinary and irrigation purposes.

2. Co-Op has failed to fully comply with the terms and conditions of its permit and the standards provided in the state program. For instance, over the past five years, Co-Op has been cited for violations of requirements dealing with mine openings, subsidence, runoff containment, waste removal, and water monitoring. Such omissions and failures endanger the water sources of Water Users.

3. Co-Op's current permit does not include measures, terms and conditions adequate to protect water sources in the Bear Canyon Mine area and to remediate whatever harm to these water sources it may cause. Renewal, if allowed by the Division of Oil, Gas and Mining, must provide for adequate maintenance, testing, exploration, protection and remediation, and must include additional terms and conditions designed to protect and provide for immediate replacement of these sources if necessary.

4. The Division of Oil, Gas and Mining has authority to require additional information under R645-303-232.250.

5. Co-Op must provide and the Division of Oil, Gas and Mining should require more specific information regarding Co-Op's mining operations, actual hydrologic consequences of mining, and in-mine activities over the past five years.



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor  
Ted Stewart  
Executive Director  
James W. Carter  
Division Director

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340  
801-359-3940 (Fax)  
801-538-5319 (TDD)

August 3, 1995

**FIELD(1)**

Re: Determination of Completeness, Five Year Permit Renewal, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #3, Emery County, Utah

Dear Mr. **FIELD(2)**:

The Utah Division of Oil, Gas and Mining (Division) has determined the five-year permit renewal application for the Bear Canyon Mine to be administratively complete. Notice is hereby given to all appropriate agencies in accordance with R645-300-121.300 of the Utah Coal Mining Reclamation Act of this permit renewal.

The permit area (approximately 1,500 acres) is located in Emery County, Utah and is described as follows:

**Township 16 South, Range 7 East, SLBM**

- Section 14: SW1/4, SE1/4
- Section 23: E1/2, E1/2, W1/2
- Section 24: All West of North-South Fault
- Section 25: All West of North-South 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.

No decision will be made by the Director for a minimum period of 30 days after submission of this Notice of Availability to the appropriate agencies. This plan is available for public review at the Division of Oil, Gas and Mining, 3 Triad Center, Suite 350, 355 West North Temple, Salt Lake City, Utah 84180-1203. If no adverse comments are received, the Division will successively renew this mining permit.

Comments on this plan may be addressed to the Director of this office:

James W. Carter, Director  
Division of Oil, Gas and Mining  
3 Triad Center, Suite 350  
355 West North Temple  
Salt Lake City, Utah 84180-1203

For further information, please contact Lowell P. Braxton or Pamela Grubaugh-Littig at the above address.

Sincerely,

*L.P.B.*

Lowell P. Braxton  
Associate Director, Mining

mbm

cc: P. Grubaugh-Littig  
BEAR.DOC

James Fulton, Chief  
Denver Field Division  
Office of Surface Mining  
Reclamation and Enforcement  
1999 Broadway Ste 3320  
Denver, CO 80202-5733

Art Abbs, Acting Director  
Office of Surface Mining  
Reclamation and Enforcement  
505 Marquette N.W., Suite 1200  
Albuquerque, NM 87102

Mark Bailey, Area Manager  
Price River Resource Area  
Bureau of Land Management  
900 North 700 East  
P.O. Box AB  
Price, UT 84501

Alan Rabinoff, Chief  
Mining Law and Solid Minerals  
Bureau of Land Management  
324 South State Street  
P.O. Box 45155  
Salt Lake City, UT 84145-0155

Robert D. Williams, Assistant Field  
Supervisor  
U.S. Fish and Wildlife Services  
Ecological Services  
Lincoln Plaza  
145 E. 1300 South Ste 404  
Salt Lake City, UT 84115

Janette S. Kaiser, Forest Supervisor  
(2 Copies)  
U.S. Forest Service  
Manti-LaSal National Forest  
599 West Price River Road  
Price, UT 84501

Mark Page, Regional Engineer  
Utah Division of Water Rights  
Southeastern Regional Office  
453 South Carbon Avenue  
P. O. Box 718  
Price, UT 84501-0718  
(Carbon and Emery County Mines)

Brent Bradford, Deputy Director  
Office of the Executive Director  
Department of Environmental Quality  
168 North 1950 West  
P.O. Box 144810  
Salt Lake City, UT 84114-4810

Max J. Evans, Director  
Utah Division of State History  
300 Rio Grande  
Salt Lake City, UT 84101

Scott Hirschi, Director  
School and Institutional Trust Lands  
Administration  
3 Triad Center, Suite 400  
355 West North Temple  
Salt Lake City, UT 84180-1204

Bryant Anderson  
Emery County Planning and Zoning  
P.O. Box 297  
Castle Dale, UT 84513

William P. Yellowtail, Jr.  
Regional Administrator  
Environmental Protection Agency  
999 18th Street  
Denver Place, Ste. 500  
Denver, CO 80202-2405

Carolyn B. Wright, Research Analyst  
Governor's office of Planning and  
Budget  
Government Relations Dept  
State Planning Coordinator Office  
116 State Capitol  
Salt Lake City, Ut 84114

Joseph Jenkins, Executive Director  
Dept of Community and Economic  
Development  
324 South State Street, Ste 500  
Salt Lake City, UT 84111

Mike Schwinn, District Engineer  
U.S. Army Corps of Engineers  
1403 South 600 West  
Bountiful, UT 84010

AFFIDAVIT OF PUBLICATION

STATE OF UTAH)

ss.

County of Emery,)

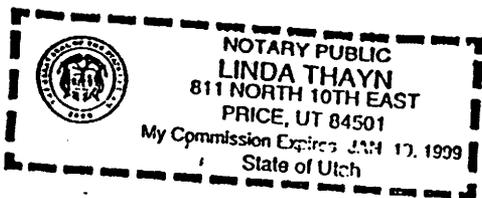
I, Kevin Ashby, on oath, say that I am the Publisher of the Emery County Progress, a weekly newspaper of general circulation, published at Castle Dale, State and County aforesaid, and that a certain notice, a true copy of which is hereto attached, was published in the full issue of such newspaper for 4 (Four) consecutive issues, and that the first publication was on the 22nd day of August, 1995 and that the last publication of such notice was in the issue of such newspaper dated the 12th day of September, 1995.

*Kevin Ashby*  
Kevin Ashby - Publisher

Subscribed and sworn to before me this 12th day of September, 1995.

*Linda Thayne*  
Notary Public My commission expires January 10, 1999 Residing at Price, Utah

Publication fee, \$96.00



**NOTICE**

Co-Op Mining Company, P.O. Box 1245, Huntington, Utah, 84528 hereby announces its intent to renew its coal mine and reclamation permit for coal mining activities at the Bear Canyon Mine, Permit No. ACT/015/025, issued Nov. 1, 1985. The Bear Canyon Mine is located in Bear Canyon, approximately 12 road miles west of Huntington, Utah. The permit area, found on the USGS Hiawatha Quadrangle map, is described as follows: T16S, R7E, SLBM, SW1/4, SE1/4, Sec. 14, E1/2, E1/2, W1/2, Sec. 23, All Sec. 24 West of N-S Fault, All Sec. 25 West of N-S Fault, NE1/4, NE1/4, NW1/4, NE1/4, N1/2 SW1/4, NE1/4 and access/haul road and topsoil storage area, Sec. 26, as shown on Plate 2-1 of the Mining and Reclamation Plan. Written comments, objections, or requests for informal conferences should be directed to the Utah Division of Oil, Gas & Mining, 3 Triad Center, Suite 350, Salt Lake City, Utah, 84180-1203. Copies of the renewal application are available for public inspection at the office of the Utah Division of Oil, Gas & Mining, Salt Lake City and at the Emery County Recorder's office, Emery County Courthouse, Castle Dale, Utah, 84513.  
Published in the Emery County Progress August 22, 29, September 5 and 12, 1995.



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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3 Triad Center, Suite 350  
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801-359-3940 (Fax)  
801-538-5319 (TDD)

November 2, 1995

TO: File

FROM: Pamela Grubaugh-Littig, Permit Supervisor *pgl*

RE: AVS Recommendation, 510 (c) Clearance, Co-Op Mining Company,  
Bear Canyon Mine, Folder #5, Emery County, Utah

As of the writing of this memo, there is an "issue" recommendation" for the Bear Canyon Mine. There are no outstanding violations or cessation orders for Co-Op Mining Company, nor any outstanding fines or bond forfeitures or a pattern of violations associated with Co-Op Mining Company.



State : UT	Permit No : ACT015025	Appl No : ACT015025
Applicant : 089059( CO OP MINING CO )		Seqno : 0

SYSTEM RECOMMENDATION IS BASED ON ENTITY OFT		
SYSTEM RECOMMENDATION	: ISSUE	11/02/95
PREVIOUS SYSTEM RECOMMENDATION	: ISSUE	

RCM\_MNT(F7) PERMIT/APPL(F8)  
PRV\_SCR(F3) EVOFT(F5) REPORTS(F9) CHOICES(F10)  
avsdg

17:04