

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

November 5, 2004

OK

TO: Internal File

THRU: Peter H. Hess, Environmental Scientist III/Engineering, Team Lead

PHH by an

FROM:  Priscilla W. Burton, Environmental Scientist III/Soils

RE: Incidental Boundary Change, Co-Op Mining Company, Bear Canyon Mine, Permit C/015/025, Task #2042

SUMMARY:

The Division received an application from Co-Op Mining Co. to add 39.44 acres to the Bear Canyon Mine permit area in section 24, T. 16 S., R. 7 E, which will make all of section 24 within the permit area and increase the permit from 3,336.18 acres to 3,375.62 acres. The increase in area lies within federal lease U-38727. I was asked to review the administrative, land use, and biology portions of this application.

Plate 2-1 illustrates the locations of federal leases, including federal leases U-61048 and U-61049 to the north and east of the permit area. These leases are held by C.O.P. Coal Development Co., but are not part of the permit area at this time.

The application is not recommended for approval until several administrative details are cleared up as outlined in this memo.

The Utah Coal Mining Permit for C/015/025 should be revised to indicate the permit area of 3,375.62. Exhibit D, to amend Exhibit A of the reclamation agreement should also be filed with the Division upon approval of this amendment to amend the permit area to 3,375.62 acres.

The Stipulation to revise the Reclamation Agreement dated 1/25/93 on file with the Division incorrectly lists the surface disturbed area as 23.54 acres. This figure should be corrected to 40.46 acres as listed in Section 3.3.14 on Table 3.3-1, Surface Disturbance Summary.

Using the revised Plate 2-1, the Division should make the appropriate change to permit area map file M:\FILES\COAL\PERMITS\015\C0150025\c015025-area.pdf. (i.e. notify Dan Smith)

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TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

Chapter 2 provides information ownership and control of the Bear Canyon Mine. The Permittee is Co-Op Mining Co. (also known as C.W. Mining Co.), a Utah corporation located in Salt Lake City (p. 2-3). No federal identification number is provided. C.W. Mining Co. will pay the abandoned mine fee.

The last names and initials of the Officers and Directors of C.W. Mining Co. are provided along with their addresses and titles (p. 2-4). First names and telephone numbers are not provided. The federal identification number for C. W. Mining Co. is 87-0399230. The percent interest (ownership) of C.W. Mining Co. in Co-Op Mining Co. is stated as "DBA, doing business as." A statement as to whether the officers and directors are the same for Co-Op Mining Co. is not made.

R645-301-112.400 requires that the application include ownership and control information for C.O.P. Coal Development Co., the owner of the leases. By definition, the owner of the coal lease is presumed to have ownership or control over the Lessee (see R645-100-200. Definitions).

Co-Op Mining Co. also held Utah coal mining permit C/015/021 for the Trail Canyon Mine. Trail Canyon Mine received final bond release on December 29, 2000.

Findings:

The information provided does not meet the requirements for identification of interest requirements of the Regulations. Prior to approval, the Permittee must provide the following information in accordance with:

R645-301-112.200, 1) The Permittee must include a statement in the MRP as to whether the officers and directors of C.W. Mining Co. are the same as Co-Op Mining Co.
2) The Permittee must include a statement as to whether the employer identification number of C.W. Mining Co. is the same as Co-Op Mining Co.

R645-301-112.400 et seq, The application must include ownership and control information for C.O.P. Coal Development Co.

VIOLATION INFORMATION

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

Analysis:

Violation information provided in Appendix 2-A of the MRP is dated 2000 and must be updated to include the past three years of violation information for any law rule or regulation pertaining to air or water environmental protection or for any violation of a provision of the Act incurred in connection with the Bear Canyon Mine.

Findings:

The information provided in the application does not meet the violation reporting requirements of the regulations. Prior to approval, the Permittee must provide the following information in accordance with:

R645-301-133.300, The application must include a list of all violation notices pertaining to air or water environmental protection or for any violation of a provision of SMCRA received by the Permittee during the three-year period preceding the application date.

RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

Analysis:

There does not appear to be right of entry to the NE1/4 of the NE1/4 of section 24, T. 16 S. Right of entry to the subsurface was secured by C. O. P. Coal Development Co. through lease assignments and lease agreements found in Appendices 2-B and 2-F. C. O. P. Coal

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Development Co. is the owner of record of fee ground and federal coal leases ^{U-}024316, ^{U-}024318, U-020668, and U-38727 within the permit area. The legal description of the lease area provided in Appendix 2-F has not been modified to include the NE1/4 of the NE1/4 of section 24, T. 16 S., R. 7 E.

Co-Op Mining Co. leases the fee and federal coal from C. O. P. Coal Development Co. A letter dated December 21, 1990 refers to a lease between C. O. P. Coal Development Co. and Co-Op Mining Co. for federal leases U-24316 and 024318 that expired in 1995. Co-Op Mining Co. must provide the Division with documentation of renewed lease agreements between C.O.P. Coal Development Co. and Co-Op Mining Co. for all federal leases in the permit area.

Findings:

The information provided in the application is not adequate to meet the requirements of right of entry. Prior to approval, the Permittee must provide the following information in accordance with:

R645-301-114.100, 1) The Permittee must provide the Division with documentation of renewed lease agreements between C.O.P. Coal Development Co. and Co-Op Mining Co. for all federal leases in the permit area. **2)** The Permittee must provide updated lease information providing right of entry to the NE1/4 of the NE1/4 of section 24, T. 16 S in federal lease U-38727.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

Analysis:

Section 2.2.2 of the application contains a legal description of the current permit area and the proposed addition.

The operations are not within 100 feet of a public road. The operations are within 300 feet of two occupied dwellings owned by C.O.P. Coal Development Co. (Appendix 2-G contains waiver letters from the owners and occupants of these buildings.) Plate 3-3 shows the location of a third dwelling (hunting cabin) in the SW1/4 SE1/4 Sec 24, directly above the Tank Seam mine workings shown on Plate 3-4C and within 300 ft of the Blind Canyon Seam workings shown on Plate 3-4C. The status of this dwelling should be noted in section 2.5.1 of the MRP. If appropriate, Appendix 2-G should include a waiver letter for this dwelling. The status of this dwelling is incorrectly listed as 1,000 feet distant from the permit area in Section 3.4.2.4.

There is no portion of the area permitted within an area designated as unsuitable for mining (MRP, section 2.5). The Division is unaware of any study or petition for designation as unsuitable.

Findings:

The information provided in the application does not meet the information requirements for the Division to determine the status of unsuitability. Prior to approval, the Permittee must provide the following information in accordance with:

R645-103-235, Plate 3-3 shows the location of a dwelling (hunting cabin) in the SW1/4 SE1/4 Sec 24, directly above the Tank Seam mine workings shown on Plate 3-4C and within 300 ft of the Blind Canyon Seam workings shown on Plate 3-4C. The status of this dwelling should be noted in section 2.5.1 of the MRP. Appendix 2-G should include a waiver letter for this dwelling. The MRP should correctly state the proximity of this dwelling to the permit in Section 3.4.2.4.

PERMIT TERM

Regulatory References: 30 CFR 778.17; R645-301-116.

Analysis:

There are 3,375.62 acres within the permit area (Sec 2.2.2). The permit area is shown on all maps and categorized by ownership of surface and minerals in Table 2-1. Plate 2-2 provides the key to understanding Table 2-1. The permit area has the following boundaries:

Township 16 South, Range 7 East, SLBM

Section 13: W1/4
Section 14: S1/2, NE1/4
Section 23: E1/2, E1/2 W1/2
Section 24: ALL
Section 25: ALL
Section 26: NE1/4NE1/4, NW1/4NE1/4, N1/2 SW1/4 NE1/4, and cherry stem of the mine access road through the SE1/4 NE1/4

Township 16 South, Range 8 East, SLBM

Section 19: S1/2 NW1/4, SW1/4, SW1/4 SE1/4
Section 30: W1/2, W1/2 NE1/4, NW1/4 SE1/4
Section 31: NE1/4 NW1/4, NW1/4 NE1/4

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Disturbed area boundaries are shown on Plates 2-4, which are the surface facilities maps. The surface acreage disturbed by the mine encompasses approximately 40.46 acres. The disturbed acres are listed in Section 3.3.14 on Table 3.3-1, Surface Disturbance Summary.

The current permit was issued in November 1, 2000 and expires November 1, 2005.

Findings:

The information provided in the application is adequate to meet the requirements of this section of the regulations.

PUBLIC NOTICE AND COMMENT

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

Analysis:

Public notice is not required for an incidental boundary change. Previous publication affidavits are provided in Appendix 1-D.

The current general liability insurance provides effective coverage for the permittee through January 1, 2005. An aggregate amount of \$2,000,000 is provided for bodily injury and property damage; \$1,000,000 is the amount of provided coverage for each occurrence.

Findings:

The information provided meets the requirements for public notice and liability insurance requirements of the Regulations.

FILING FEE

Regulatory Reference: 30 CFR 777.17; R645-301-118.

Analysis:

A filing fee is not required for this type of application.

Findings:

The information provided in the application is adequate to meet the requirements of this section of the regulations.

PERMIT APPLICATION FORMAT AND CONTENTS

Regulatory Reference: 30 CFR 777.11; R645-301-120.

Analysis:

The application includes page 2-3A which appears to replace page 2-3. The Permittee should re-evaluate the pagination of this page. This is a small detail that might cause confusion in the future. (i.e. Where is page 2-3 or 2-3B?)

A discrepancy exists between the total permit acreage given on page 2-3A (3,375.62 acres) and that given in the legend of Plate 2-1 (10,840.54 acres).

Findings

The information provided in the application does not match the format of the existing MRP. Prior to approval, the Permittee must provide the following information in accordance with:

R645-103-120, 1) With regard to revised page 2-3A, please keep pages in sequential order with the existing MRP. **2)** A discrepancy exists between the total permit acreage given on page 2-3A (3,375.62 acres) and that given in the legend of Plate 2-1 (10,840.54 acres).

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

PERMIT AREA

Regulatory Requirements: 30 CFR 783.12; R645-301-521.

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Analysis:

A discrepancy exists between the total permit acreage given on page 2-3A (3,375.62 acres) and that given in the legend of Plate 2-1 (10,840.54 acres). See deficiency written under R645-301-120, above.

Table 2-1 outlines surface ownership, and subsurface ownership: coal, minerals, oil & gas, as well as grazing rights within and adjacent to the existing permit area. Areas A through E in Table 2-1 are illustrated on Plate 2-2. Area E, a category of land with U.S.F.S. surface ownership and C.O.P. Coal Development Co. subsurface ownership (fee coal) is adjacent to the existing eastern permit boundary, but not within the permit area. Consequently, Area E is not described on page 2-3A as part of the permit area and the total permit area is given as 3,375.62 on p. 2-3A. However, Plate 2-1 lists a total of 10,840.54 acres of permit area in the legend. This discrepancy must be accounted for.

Plate 2-1 illustrates the locations of federal leases U-61048 and U-61049 to the north and east of the permit area. These leases are held by C.O.P. Coal Development Co., but are currently not part of the permit area.

As shown on Plate 2-1, the NE1/4NE1/4 of section 24 is now included in federal lease U-38727, as a result, all of section 24 is in the permit area. The permit area is increased from 3,336.18 acres to 3,375.62 acres (p.2-3A). The Utah Coal Mining Permit for C/015/025 should be revised to indicate the permit area of 3,375.62.

Findings

The information provided does not meet the requirements for identification of permit area. Prior to approval, the Permittee must provide the following in accordance with:

R645-301-521, The Permittee must specify in the application and on the Plate 2-1 that federal leases U-61048 and U-61049 as well as fee coal to the north and east of the permit area are areas of future mining and estimate the timing and sequence of the future mining.

LAND-USE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.22; R645-301-411.

Analysis:

The land to be added to the permit area is under the ownership of the United States and managed by the Forest Service. The land use is wildlife and grazing (Table 2-1). There has been no change to the existing information in the plan, concerning land use, with this application.

Findings

The application meets the requirements of the R645 Rules for land use resource information.

MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

Analysis:

Vegetation Reference Area Maps

The application includes a revised Plate 9-1 that includes all of sec 24 T.16 S., R.7 E. within the permit area. There have been no changes made to the vegetation information presented on this plate. There are no other changes to the biology or vegetation sections with this application.

Findings:

The information provided meets the requirements of the R645 Rules.

RECLAMATION PLAN

BONDING AND INSURANCE REQUIREMENTS

Regulatory Reference: 30 CFR Sec. 800; R645-301-800, et seq.

Analysis:

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General

The surety bond on file for the Division covers Exhibit A, the permit area. This area has been enlarged to include all of sec 24 T16 S R 7 E. Upon approval of this amendment, the Division should make the requisite changes to amend Exhibit A of the reclamation agreement to reflect the larger permit area.

Findings:

The information provided by the applicant meets the requirements of the Regulations.

RECOMMENDATIONS:

The application is not recommended for approval until several administrative details are cleared up as outlined in this memo.

The Utah Coal Mining Permit for C/015/025 should be revised to indicate the permit area of 3,375.62. Exhibit D, to amend Exhibit A of the reclamation agreement should also be filed with the Division upon approval of this amendment to amend the permit area to 3,375.62 acres.

The Stipulation to revise the Reclamation Agreement dated 1/25/93 on file with the Division incorrectly lists the surface disturbed area as 23.54 acres. This figure should be corrected to 40.46 acres as listed in Section 3.3.14 on Table 3.3-1, Surface Disturbance Summary.

Using the revised Plate 2-1, the Division should make the appropriate change to permit area map file M:\FILES\COAL\PERMITS\015\C0150025\c015025-area.pdf. (i.e. notify Dan Smith).