

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

September 16, 2005

TO: Internal File

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

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

RE: Incidental Boundary Change, Co-Op Mining Company, Bear Canyon Mine, Permit C/015/0025, Task ID #2226

SUMMARY:

This is a review of Co-Op Mining Company's response to issues raised during the review of Task ID #2042 (see pwb2042M.doc). The application from Co-Op Mining Co. adds 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.

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. Identification of interest information is again requested for C.O.P. Coal Development Co.

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 Chap. 2, Table 2-7 Reclamation Area 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).

TECHNICAL ANALYSIS:

GENERAL CONTENTS

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IDENTIFICATION OF INTERESTS

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

Analysis:

Chapter 2 provides information of 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). C. W. Mining Co. is registered with the State of Utah to do business as (DBA) Co-Op Mining Company.

The federal identification number for C. W. Mining Co. is 87-0399230. 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). C.W. Mining Co. will pay the abandoned mine fee.

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.

By definition, the owner of the coal lease is presumed to have ownership or control over the Lessee (see R645-100-200. Definitions) and therefore R645-301-112.400 requires that the Permittee provide ownership and control information for the coal leaseholder, unless no controlling interest can be demonstrated. The Permittee has provided the officers and directors of C.O.P. Coal Development Co., the coal lease owner, but has also indicated that the company has no control over C. W. Mining.

Findings:

The information provided meets the requirements for identification of interest's requirement of the Regulations.

VIOLATION INFORMATION

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

Analysis:

Appendix 2-A of the MRP (Appendix A-1 of the reformatted MRP) contains current information on violations issued by DOGM.

Findings:

The information provided in the application meets the violation reporting requirements of the Regulations.

RIGHT OF ENTRY

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

Analysis:

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 Development Co. is the owner of record of fee ground and federal coal leases 024316, 024318, U-020668 and U-38727 within the permit area. CO-OP Mining Co. leases the fee and federal coal from C. O. P. Coal Development Co (letter dated January 1, 2001 in Appendix 1B, new format).

The legal description of the lease area provided in Appendix 2-F does not include the NE1/4 of the NE1/4 of section 24, T. 16 S., R. 7 E. However, right of entry was specifically granted by the BLM in a recent letter from James Kohler, Bureau of Land Management, Chief, Solid Minerals, to the Division, dated February 9, 2005.

Findings:

The information provided in the application meets the requirements of right of entry.

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 three occupied dwellings owned by C.O.P. Coal Development Co. (Appendix 2-G contains waiver letters from the owners and occupants of these buildings.)

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Plate 3-3 shows 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 1000 ft of the Blind Canyon Seam workings shown on Plate 3-4C (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 meets the requirements of the Regulations.

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: NE1/4 NE1/4, NW1/4 NE1/4, 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

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.

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PERMIT APPLICATION FORMAT AND CONTENTS

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

Analysis:

Pagination details have been worked out.

Findings:

The information provided meets the requirements of the Rules.

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.

Analysis:

The discrepancy between the total permit acreage given on page 2-3A (3,375.62 acres) and that given in the legend of Plate 2-1 has been resolved.

The permit area is increased from 3,336.18 acres to 3,375.62 acres (p.2-3A). As shown on Plate 2-1, the NE1/4 NE1/4 of section 24 is now included in federal lease U-38727, as a result, all of section 24 is in the permit area. 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).

As shown on Plate 2-1, the NE1/4 NE1/4 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).

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. The Permittee does not anticipate mining these areas within the current permit term (deficiency response letter dated April 18, 2005).

Findings:

The information provided meets the requirements of the Rules.

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:

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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:

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.

Findings:

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

RECOMMENDATIONS:

The administrative details have been resolved and approval is recommended. The Permittee is mixing pagination between the approved plan and the reformatted plan and this may lead to confusion when the pages are inserted into the approved MRP.

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 Chap. 2, Table 2-7 Reclamation Area Summary.

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