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CO-OP MINING COMPANY

P.O. Box 1245
Huntington, Utah 84528

Office (435) 687-2450
FAX (435) 687-5724

April 13, 2007

Coal Program
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Mary Ann Wright,

Freeborn
c/o 15/0025

Re: Permit, Bear Canyon Mine, C/015/025

We are returning the new permit dated April 3, 2007 with the required signatures. We signed this permit with the understanding that we would be allowed to address the permit conditions in the future.

The condition that we are primarily concerned with is the Forest Service NHPA Stipulations. The concern is with stipulation 1 section c where it discusses areas not surveyed by an archaeologist. Based on conversations with all involved agencies, it is our understanding that the "subsidence" that would invoke this stipulation is "visible subsidence", however, the stipulation does not clearly define it as such. We feel that a clarification is necessary so that anybody who is reading the stipulation will have a clear understanding of the subsidence that invokes the stipulation. We reserve the right to clearly define this within the MRP. We will provide a clarification to the stipulation which will be added to the Bear Canyon MRP in a future amendment that can be reviewed by all involved parties.

If you have any questions, please call me or Mark Reynolds at (435) 687-2450.

Thank You,



Mark Reynolds, PE
Permitting Coordinator

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DIV. OF OIL, GAS & MINING

Final
4/015/0025

FEDERAL

**PERMIT
C/015/0025**

April 3, 2007

**STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114-5801
(801) 538-5340**

This permit, C/015/0025, is issued for the State of Utah by the Utah Division of Oil, Gas and Mining (Division) to:

**Co-Op Mining Company
(aka CW Mining)
P. O. Box 1245
Huntington, Utah 84528
(435) 687-2450**

for the Bear Canyon Mines. A performance bond is filed with the Division in the amount of \$1,825,000 payable to the State of Utah, Division of Oil, Gas and Mining and the United States Department of Interior, Office of Surface Mining Reclamation and Enforcement. 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 coal mining and reclamation operations on the following described lands within the permit area of the Bear Canyon Mines, situated in the State of Utah, Emery County, and located as follows:

Township 16 South, Range 7 East, SLBM

- Sec. 1: Lots 1 and 2, S1/2 NE1/4, SE1/4;
- Sec. 10: N1/2, N1/2 S1/2, SE1/4 SW1/4, S1/2 SE1/4;
- Sec. 11: All;
- Sec. 12: All;
- Sec. 13: All;
- Sec. 14: NE1/4, E1/2 NW1/4, S1/2;
- Sec. 23: E1/2, E1/2 W1/2;
- Sec. 24: All;
- Sec. 25: All;

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DIV. OF OIL, GAS & MINING

Sec. 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.

Township 16 South, Range 8 East, SLBM

- Sec. 6: Lots 11-14, E1/2 SW1/4, W1/2 SE1/4, SE1/4SE1/4;
Sec. 7: All;
Sec. 8: NW1/4, W1/2 E1/2, N1/2 SW ¼, SE1/4 SW1/4, SW1/4 SW1/4;
Sec. 16: All;
Sec. 17: All;
Sec. 18: All;
Sec. 19: S1/2 NW1/4, SW1/4, SW1/4 SE1/4, N1/2SE1/4, S1/2 NE1/4, Lot 1,
NE1/4 NW1/4, N1/2 NE1/4;
Sec. 20: S1/2 NW1/4, N1/2 SW1/4, N1/2 NW1/4, NE1/4, NE1/4 SE1/4;
Sec. 21: E1/2 NW1/4, NE1/4, N1/2 SE1/4, W1/2 NW1/4, N1/2 SW1/4, SE1/4SW1/4, S1/2SE1/4;
Sec. 30: W1/2, W1/2 NE1/4, NW1/4 SE1/4; and
Sec. 31: NE1/4 NW1/4, NW1/4 NE1/4;

This legal description is for the permit area of the Bear Canyon Mines. The Permittee is authorized to conduct coal mining and reclamation operations connected with mining on the foregoing described property subject to the terms and conditions of this permit.

- Sec. 3 COMPLIANCE** - The Permittee will comply with all applicable terms and conditions required by the lease issued pursuant to the Mineral Leasing Act and conditions imposed by the Federal land management agency relating to postmining land use, and those of other affected agencies, and compliance with the requirements of the Federal land management agency with jurisdiction, and performance standards and requirements of the State Program.
- Sec. 4 PERMIT TERM** - This permit expires on November 2, 2010.
- Sec. 5 ASSIGNMENT OF PERMIT RIGHTS** - The permit rights may not be transferred, assigned or sold without the approval of the Division Director. 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 Division, 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 the Division 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 Division. The Division, after coordination with OSMRE, shall inform the Permittee of necessary actions required. The Permittee shall implement the mitigation measures required by and within the time frame specified by the Division.
- 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 the Division and the Permittee at any time to adjust to changed conditions or to correct an oversight. The Division 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: John R. Bay
Date: 4/5/07

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

Charles Reynolds
Authorized Representative of the Permittee

Date: 4/13/07

ATTACHMENT A Special Conditions

1. Co-Op Mining Company will submit surface and ground water quality data for the Bear Canyon Mine on a quarterly basis for the Bear Canyon Mine in an electronic format through the Electronic Data Input web site, <http://hlunix.hl.state.ut.us/cgi-bin/appx-ogm.cgi>, throughout the life of the permit.
2. Co-Op Mining Company will not initiate coal mining and reclamation operations on federal leases UTU-61048, UTU-61049, UTU-46484, and UTU-24316 until federal mining plan approval is signed by the Assistant Secretary of Land and Minerals for this mining plan modification.
3. This permit is conditioned upon the issuance of the Forest Service letter of consent.
4. Co-Op Mining Company must submit the amended air quality approval to the Division for inclusion in the MRP within 30 days of the approval that allows for the increase in throughput to 2.5 million tons per year prior to Co-Op Mining exceeding the approved 1.95 millions tons per year.
5. Co-Op Mining Company must develop a raptor mitigation plan and submit it to the Division for inclusion in the MRP by July 1, 2007 in consultation with the Division, Manti-La Sal National Forest, the BLM, and Division of Wildlife Resources.
6. Co-Op Mining Company will comply with the Special Forest Service Stipulations regarding compliance with the National Historic Preservation Act.

The following stipulations will apply to both NFS and private lands associated with the Bear Canyon Lease Expansion project area. The subsidence monitoring and reporting requirements for the NFS lands will also include appropriate notification to the Division.

For private lands that involve subsidence related impacts to cultural and historic resources, the Division will be the appropriate agency for initial contact and coordination, in place of the Forest Service as outlined below for subsidence related impacts to cultural and historic resources on NFS lands:

Forest Service NHPA Stipulations

1. **Monitoring of Subsidence.** CO-OP will conduct annual subsidence monitoring of National Forest System Lands (NFS) throughout the life of the mine. Should subsidence occur, CO-OP will provide an accurate map of the entire subsidence area. CO-OP will ensure that a qualified archaeologist will then examine the location of the subsidence area relative to previous inventories and known sites within fifteen (15) working days of the identification of the subsidence. Depending on the location of subsidence in relation to previous inventories

and known sites, the following stipulations will apply (to each subsidence event):

- a. **Previously Inventoried and No Sites.** If subsidence occurs on NFS lands within an area that has undergone previous archaeological inventory, and no sites are present within the area of subsidence, or no sites eligible to the National Register of Historic Places are present in the area of subsidence, no further work will need to be done. CO-OP or their consulting archaeologist will notify the U.S. Forest Service (USFS) regarding this determination within fifteen (15) working days of making the determination. The USFS will provide the information to SHPO.
 - b. **Previously Inventoried and Known Sites.** If subsidence occurs on NFS lands within an area that has undergone previous archaeological inventory, and known archaeological sites, previously determined eligible to the National Register of Historic Places are present in the subsidence area, CO-OP will have a qualified archaeologist examine the effects of subsidence upon the site(s) in question within fifteen (15) working days of making this determination. The archaeologist will provide a report, for review by the USFS in a timely manner that makes recommendations regarding whether or not the effects of subsidence are adverse. The USFS will make a final determination of the effects of subsidence. The USFS will then consult with the SHPO regarding the effects determination. If the effect is determined to be adverse, procedures following 36CFR800.6 and the stipulations below regarding evaluation and archaeological treatment will be followed.
 - c. **Not Previously Inventoried.** If subsidence occurs on NFS lands within an area that has not undergone previous archaeological inventory, CO-OP will have a qualified archaeologist conduct a field examination of the subsidence area within fifteen (15) working days of making this determination (in consultation with the USFS and SHPO). Depending on the presence or absence of sites in the subsidence area, the following stipulations will apply (to each subsidence event):
 - i. **No Sites.** If no sites are present within the area of subsidence, the archaeologist will make a recommendation of No Historic Properties Affected to the USFS in a timely manner. The USFS will make a final determination of the effects of subsidence. The USFS will then consult with the SHPO regarding the effects determination per 36CFR800.4(c).
 - ii. **Newly Discovered Sites.** If a site or sites are found within the area of subsidence, the archaeologist will provide a report and make recommendations of eligibility and effect to the USFS (per 36CFR800.4(c)(2) and 36CFR800.5) regarding the site(s) and subsidence effects on the site(s) in a timely manner. The USFS will make a final determination of eligibility of the site(s) and the effects of subsidence on the site(s). The USFS will then consult with the SHPO regarding the effects determination. If the effect to any site eligible to the National Register of Historic Places is determined to be adverse, procedures following 36CFR800.6 and the stipulations below regarding evaluation and archaeological treatment will be followed.
 - d. **Time Lines.** In all cases SHPO and the Tribes will be afforded thirty (30) calendar days following receipt of reports/consultation requests to respond.
 - e. **Conducting Consultation.** The USFS will consult with tribes, SHPO, and the Utah Division of Oil, Gas and Mining (UDOGM) during this process at a level appropriate to the nature of the resources (if any) and effects to the resources (if any) taking into account comments and concerns received previously from the tribes and consulting parties.
2. **Discoveries in Area of Potential Effect (APE).** Should unanticipated cultural or historic resources be observed within the APE during, but not limited to, CO-OP's quarterly ground-water monitoring, annual subsidence monitoring, OGM's field visits, construction of any mine-related structures or features, future archeological surveys conducted within the permit area, or otherwise brought to USFS attention, CO-OP will halt any work within the vicinity of the discovery that could harm the discovery and notify the USFS within 24 hours of the discovery. CO-OP will also protect the site. The USFS will notify SHPO of said resources within seven (7) days of resource discovery. If determined appropriate, the USFS will require CO-OP to

record the discovery, conduct additional evaluations as necessary, and provide correlating reports. The USFS will make determinations of eligibility and effect regarding the discovery.

- a. **No Historic Properties Affected or No Adverse Effects.** If a determination of No Historic Properties Affected or No Adverse Effects is made, the USFS will consult with the SHPO regarding the determination following 36CFR800.4-5.
 - b. **Adverse Or Potentially Adverse.** If effects to a site that is determined via this process to be eligible to the National Register of Historic Places are determined adverse or potentially adverse, the USFS, CO-OP and SHPO will reconvene to recommend and draft appropriate measures to avoid, minimize, or mitigate adverse effects.
 - c. **Time Lines.** In all cases SHPO and the Tribes will be afforded thirty (30) calendar days following receipt of reports/consultation requests to respond.
 - d. **Conducting Consultation.** The USFS will consult with tribes, SHPO, and UDOGM during this process at a level appropriate to the nature of the resources (if any) and effects to the resources (if any) taking into account comments and concerns received previously from the tribes and consulting parties.
3. **Funding of Work.** CO-OP will fund and implement any future and all cultural or historic resources fieldwork, analysis, and monitoring, required under these stipulations.