

**UTAH DIVISION OF OIL, GAS AND MINING
STATE DECISION DOCUMENT
CO-OP MINING COMPANY
(AKA C.W. MINING COMPANY)
LEASE EXPANSION – MOHRLAND AREA
PRIVATE COAL AND FEDERAL LEASE ADDITIONS**

**Emery County, Utah
C/015/0025**

April 5, 2007

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NEPA for BLM Leases: (UTU-46484 [Forest Service Exclusion, dated October 3, 1997], UTU-61048 [Forest Service Letter dated July 16, 2002 requiring update of stipulation for clarification of intent consistent with post-Forest Plan agreement with local water user, the lessees and BLM]], UTU-61049 [Forest Service Decision Memo dated July 31, 2001 and Forest Service decision in 1989], and UTU-24316 [Forest Service Categorical Exclusion dated October 3, 1997 and Decision Notice signed August 6, 1987])

Forest Service Decision Notice/Finding of No Significant Impact, published March 13, 2007, Rescinded March 20, 2007 in the Sun Advocate for mining plan modification to expand the Bear Canyon Mine permit area.

* Letters

SHPO, Letter dated February 21, 2007

SHPO, Letter dated March 30, 2007

USFWS, Letters dated December 1, 2006 and January 22, 2007

OGM/USFWS Section 7 Informal Consultation, internal memo dated April 4, 2007

USFS, ***Letter forthcoming after the Environmental Assessment is completed***

BLM, Resource Recovery and Protection Plan (R2P2) for UTU-61048, 61049 & 46484, dated September 22, 2006

BLM, ***Letter forthcoming***, R2P2 approval for UTU-24316

OSM Mining Plan Modification Decision, September 2, 2005

* AVS Memo - Section 510(c) finding, dated March 23, 2007

ADMINISTRATIVE OVERVIEW

CO-OP MINING COMPANY (AKA C.W. MINING COMPANY) BEAR CANYON MINE LEASE EXPANSION – MOHRLAND AREA PRIVATE COAL AND FEDERAL LEASE ADDITIONS

**Emery County, Utah
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PROPOSAL

On July 22, 2005, the Division received the proposed Mohrland Area permit modification to the Bear Canyon Mine MRP. The previous approved permit area included approximately 3376.18 acres. CO-OP Mining Company proposes to add approximately 7591.29 acres to their existing permit area. The new permit acreage will total 10,967.39 acres. The new lease areas as well as the existing permit area are shown on the enclosed locator map. This proposal does not include any new surface facilities or surface disturbances. All mining operations will be conducted underground.

The new project area is a combination of federal and private surface and coal reserves. The following federal coal leases are being added or expanded: UTU-61048 (1108 acres), UTU-61049 (2196 acres), UTU-46484 (1400 acres) and UTU-24316 (80 acres). Approximately 2740 acres of private coal and 3754.16 acres of private surface are also being added to the permit to allow uninterrupted mining and maximum recovery of the coal reserves in the Bear Canyon Mine. It is important to note that portions of the private property overlies federal coal and federal surface overlies some private coal. Due to the fact that the proposal will add approximately 7591.29 additional acres to the approved permit area, this permitting action is categorized as a significant revision according to Utah Coal Mining Rules (R645-303-224).

The proposed project expansion was categorized as a federal mining plan modification by the Office of Surface Mining (OSM) on September 2, 2005 because it meets the requirements of 30 CFR 746.18 (d)(3) and 30 CFR 746.18 (d)(4).

The Bureau of Land Management concurred with the latest proposal and issued a recommendation for approval of the R2P2 plan on September 22, 2006. Therefore, this permit does not authorize mining in the federal leases until the R2P2 is approved and the Secretary of the Interior authorizes the mining plan approval.

BACKGROUND

The Bear Canyon Coal Mine is owned by Co-Op Mining Company (aka C. W. Mining Company) and is located in Emery County approximately 20 miles southwest of Price, Utah in the Huntington Canyon area. The original permit for the Bear Canyon Mine was issued on November 1, 1985, with subsequent permit renewals on May 29, 1991, November 2, 1995, November 2, 2000 and November 2, 2005. Mining began in the Blind Canyon Seam, and in 1994, the Division approved mining the Tank seam. The Division received the proposal to mine on the east side of the Bear Canyon Fault (Wild Horse Ridge) on December 18, 1998, this mine expansion received mining plan approval on February 1, 2002. On September 28, 2004, the Division received a minor amendment to add a 40-acre Incidental Boundary Change (IBC) to federal lease U-38727. The Division approved the IBC on September 26, 2005.

Room and pillar mining occurs in the Bear Canyon seam (middle seam), the Hiawatha seam (lower seam) and the Tank Seam (upper seam). The permit area currently encompasses 3376.18 acres and the disturbed area is 40.46 acres.

ANALYSIS

No additional surface disturbance is proposed in relation to this permit modification to add the following federal coal leases: UTU-61048 (1108 acres), UTU-61049 (2196 acres), UTU-46484 (1400 acres) and UTU-24316 (80 acres) and approximately 2740 acres of private coal and 3754.16 acres of private surface are also being added to the permit to allow uninterrupted mining and maximum recovery of the coal reserves in the Bear Canyon Mine. It is important to note that portions of the private property overlies federal coal and federal surface overlies some private coal. Mining practices will include room and pillar for development or first mining and longwall for second or full extraction.

All of the federal leases were readjusted:

- UTU-46484 [Readjusted March 20, 1998]
- UTU-61048 [Readjusted February 21, 2003]
- UTU-61049 [Readjusted June 19, 2002]
- UTU-24316 [Readjusted March 20, 1998]

NEPA was also part of the BLM Lease Adjustment process:

- UTU-46484 [Forest Service Exclusion, dated October 3, 1997]
- UTU-61048 [Forest Service Letter dated July 16, 2002 requiring update of stipulation for clarification of intent consistent with post-Forest Plan agreement with local water user, the lessees and BLM]
- UTU-61049 [Forest Service Decision Memo dated July 31, 2001]
- UTU-24316 [Forest Service Categorical Exclusion dated October 3, 1997, Decision Notice Signed August 8, 1987]

For this mining plan modification, the Forest Service required additional NEPA analysis. The Forest Service (FS) Decision Notice/Finding of No Significant Impact (FONSI) was published March 13, 2007 in the Sun Advocate and Emery County Progress. This decision was rescinded March 20, 2007 in the Sun Advocate for mining plan modification to expand the Bear Canyon Mine

permit area. A republication of the Forest Service FONSI decision is pending finalization of the supplemental NEPA analysis.

RECOMMENDATION

Co Op Mining Company has demonstrated that mining as part of acquisition of these federal leases and private coal can be done in conformance with the Surface Mining Control and Reclamation Act, and the corresponding Utah Act and performance standards. The Bureau of Land Management approved these federal leases and concurs with the decision to allow mining at this time, see recommendation for approval of the Resource Recovery and Protection Plan, dated September 22, 2006.

It is, therefore, recommended that approval be given for the addition of 7591.29 acres to the Bear Canyon Mine permit area. The total permit acreage would be 10,967.39 acres.

PERMITTING CHRONOLOGY
CO OP MINING COMPANY
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- July 22, 2005** Bear Canyon Lease Addition application received to add additional federal and private coal to the current permit area.
- September 2, 2005** OSM determined that this application is a mining plan modification.
- October 13, 2005** Bear Canyon Lease Addition application determined Administratively complete.
- October 18, 2005** Publication commences in the Emery County Progress for the Bear Canyon Mine Expansion. The notice was published for four consecutive weekly issues ending on November 8, 2005.
- December 8, 2005** End of public comment period. No comments received.
- February 1, 2006** First round of review completed for the Bear Canyon Lease Addition application Task ID #2292.
- May 16, 2006** Bear Canyon Lease Addition NEPA adequacy meeting with OSM, FS, Division - Decisions:
- Decision by the FS, Alice Carlton - to do some type of supplemental analysis: keeping this as minimal as possible to address all issues of concern to the FS;
 - Wayne Hedberg to work with Dale Harber in keeping FS current technically with all needed permit information and maps;
 - Joe Helfrich and other Division technical review team to sit down and review with Karl Boyer and others at FS, as designated, to review Cultural & 106 process, Threatened and Endangered Species review and consultation, all biological components of concern, areas of proposed subsidence in relation to any potential impact to springs and other hydrology resources; and any cumulative impacts of the proposed mining;
 - Division to receive an update today from the permittee/operator and

will set the continuing review schedule to be followed and will keep USFS in close contact with that schedule and coordinated review;

- Alice Carlton to discuss appeal issues with FS counsel;
- All to stay in close contact and work on increasing communication and coordination in reviewing the impacts of the mining proposal to non-coal resources.

- May 22, 2006** Co-Op Mining Company's first response to the Division's technical analysis of the lease addition application, Task ID #2292 is received at the Division office.
- June 13, 2006** Second round of review completed for the Bear Canyon Lease Addition application Task ID #2526.
- August 10, 2006** Co-Op Mining Company's second response to the Division's deficiencies for the lease addition application, Task ID #2526 is received at the Division's Salt Lake office.
- September 12, 2006** Third round of review completed for the Bear Canyon Lease Addition application Task ID #2597.
- September 22, 2006** The Resource Recovery and Protection Plan (R2P2) completed, signed and a copy sent to DOGM.
- October 30, 2006** Mark Reynolds hand delivers four hard copies and two digital copies of Co-Op Mining Company's third response to Task ID #2597 one of which was a confidential binder and two CD's to the Salt lake office.
- December 8, 2006** Fourth round of FS review comments and Division deficiencies, Task ID #2680, sent to Mark Reynolds, Co-Op Mining Company.
- January 16, 2007** Division receives Co-Op Mining Company's fourth response to the Division's deficiency list for the lease addition application, Task ID #2680.
- January 22, 2007** Division receives Co-Op Mining Company's fourth response to the Division's deficiency list for Task ID #2680. The response received on January 16, 2007 was returned, resubmitted on January 19, 2007 and returned again for clarifications and corrections.
- January 22, 2007** Formal Section 7 concurrence letter received from the USFWS.
- February 12, 2007** Division receives one hard copy and four digital copies of the changes to the Probably Hydrologic Consequence (PHC) maps and text for Task ID #2680.
- February 21, 2007** Copy of SHPO concurrence letter received (addressed NFS lands), no programmatic agreement needed, but stipulations will be added to permit.

March 13, 2007	USFS FONSI decision notice published in Sun Advocate & Emery County Progress.
March 20, 2007	USFS publishes rescinded notice of FONSI decision in Sun Advocate.
March 30, 2007	Division consultation letter to SHPO seeking concurrence with Division's determination of No Adverse Effect for entire project area (federal and private lands).
March 30, 2007	SHPO concurrence letter received to Division's determination of No Adverse Effect.
March 30, 2007	Cumulative Hydrologic Impact Assessment (CHIA) updated.
April 3, 2007	Technical Analysis (TA) updated to include analysis and findings for the Bear Canyon Lease Addition.
April 4, 2007	OGM/USFWS Informal Section 7 Consultation Memo finalized.
April 5, 2007	Division sends Decision Document to OSM (excluding the Forest Service EA, and the Forest Service consent letter).
Future Date	BLM will make administrative correction - listing of leases in R2P2 (lease UTU-24316 was inadvertently not listed)
Future Date	Forest Service EA completed. FONSI notice published, appeal period begins.
Future Date	Forest Service consent letter.

FINDINGS

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1. The revised plan and the permit application are accurate and complete and all requirements of the Surface Mining Control and Reclamation Act, and the approved Utah State Program (the "Act") have been complied with (R645-300-133.100). See attached Technical Analysis dated April 3, 2007.
2. No additional surface reclamation is required since the additional permit area will be mined as an underground extension of the existing mine. There will be no new surface facilities (R645-300-133.710).
3. The assessment of the probable cumulative impacts of all anticipated coal mining and reclamation activities in the general area on the hydrologic balance has been conducted by the regulatory authority and no significant impacts or material damage findings were identified. The Mining and Reclamation Plan (MRP) proposed under the application has been designed to prevent damage to the hydrologic balance in the permit area and in associated off-site areas (R645-300-133.400 and UCA 40-10-11 {2}{c}) (See Cumulative Hydrologic Impact Analysis [CHIA], updated March 30, 2007).
4. The proposed lands to be included within the permit area are:
 - a. not included within an area designated unsuitable for underground coal mining operations (R645-300-133.220) ;
 - b. not within an area under study for designated lands unsuitable for underground coal mining operations (R645-300-133.210) ;
 - c. not on any lands subject to the prohibitions or limitations of 30 CFR 761.11 {a} (national parks, etc.), 761.11 {f} (public buildings, etc.) and 761.11 {g} (cemeteries);
 - d. not within 100 feet of the outside right-of-way of a public road (R645-300-133.220);

- e. not within 300 feet of any occupied dwelling (R645-300-133-220).
5. The regulatory authority's issuance of a permit is in compliance with the National Historic Preservation Act and implementing regulations (36 CFR 800) (R645-300-133.600). See attached letters from State Historic Preservation Officer (SHPO) dated February 21, 2007 and March 30, 2007. The acreage proposed in this incidental boundary change is not located within areas where cultural resources will be found.
6. The applicant has the legal right to enter and complete mining activities through a federal coal lease issued by the Bureau of Land Management (Leases UTU-46484, UTU-61048, UTU-61049, UTU-24316) (R645-300-133.300).
7. A 510(c) report has been run on the Applicant Violator System (AVS), which shows that: prior violations of applicable laws and regulations have been corrected; neither Co Op Mining Company or any affiliated company, are delinquent in payment of fees for the Abandoned Mine Reclamation Fund; and the applicant does not control and has not controlled mining operations with a demonstrated pattern of willful violations of the Act of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act (R645-300-133.730). (See attached memo dated March 23, 2007).
8. Underground mining operations to be performed under the permit will not be inconsistent with other operations anticipated to be performed in areas adjacent to the proposed permit area. There are not permits adjacent to the Bear Canyon Mine. The Crandall Canyon Mine is in the vicinity.
9. The applicant has posted financial assurance for the Bear Canyon Mine Complex in the amount of \$1,825,000.00. (Bond #L06-01-C-015-025 issued by Lyndon Property Insurance Company). No additional surety will be required, since there is no additional surface disturbance proposed (R645-300-134).
10. No lands designated as prime farmlands or alluvial valley floors occur within the permit area (R645-302-313.100) (R645-302-321.100).
11. The proposed postmining land-use of the permit area is the same as the pre-mining land use and has been approved by the regulatory authority. (See R645-301- 400)
12. The regulatory authority has **not** made all specific approvals required by the Act, the Cooperative Agreement, and the Federal Lands Program. The Forest Service EA and Forest Service consent letter are not finalized to date. The September 22, 2006, BLM R2P2 approval letter did not include federal lease UTU-24316. OSM will coordinate with the Forest Service to complete the Environmental Assessment and obtain the requisite Forest Service consent letter. OSM will also consult with and obtain the BLM's requisite consent for UTU-24316. (See cover letter to Allen Klein from John Baza, dated April 5, 2007)

13. The proposed operation will not affect the continued existence of any threatened or endangered species or result in the destruction or adverse modification of their critical habitats (R645-300-133.500). (See letter from US Fish and Wildlife Service, dated January 22, 2007).
14. All procedures for public participation required by the Act, and the approved Utah State Program have been complied with. This permitting action was published for four consecutive weeks with a 30-day public comment period. No comments were received. (R645-300-120).
15. No existing structures will be used in conjunction with mining of the underground lease addition other than those constructed in compliance with the performance standards of R645-301 and R645-302 (R645-300-133.720).

Permit Supervisor

Permit Supervisor

Associate Director, Mining

Director