

0014

C. 1015/025 Incoming  
cc: priscilla

Q

## Hiawatha Coal Company

P.O. Box 1245  
Huntington, Utah 84528



Office (435) 687-2450  
FAX (435) 687-2084

February 6, 2009

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

To Whom It May Concern,

**Re: Application for transfer of Bear Canyon Mine Permit to Hiawatha Coal Company,  
Task ID #3083, Co-op Mining Company, Bear Canyon Mine, ACT/015/0025**

Enclosed are five hard copies of the response for Task ID #3083. Also Enclosed is the response to the deficiencies letter dated 1/28/2009 signed by Daron Haddock.

If you have any questions, please call me at (435) 687-5238.

Thank You,

*E. Finley*  
Elliot Finley

Enclosure(s)

MR/mr

**RECEIVED**  
**FEB 12 2009**  
**DIV. OF OIL, GAS & MINING**

## APPLICATION FOR COAL PERMIT PROCESSING

Permit Change  New Permit  Renewal  Exploration  Bond Release  Transfer

**Permittee:** CO-OP MINING COMPANY

**Mine:** BEAR CANYON MINE

**Permit Number:** ACT/015/025

**Title:** Permit Transfer

**Description,** Include reason for application and timing required to implement:

To Update the Ownership and Control Information

**Instructions:** If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

- |   |   |
|---|---|
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 1. Change in the size of the Permit Area? Acres: _____ Disturbed Area: _____ <input type="checkbox"/> increase <input type="checkbox"/> decrease. |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 2. Is the application submitted as a result of a Division Order? DO# _____  |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area?                                     |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 4. Does the application include operations in hydrologic basins other than as currently approved?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond?   |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6. Does the application require or include public notice publication?   |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 7. Does the application require or include ownership, control, right-of-entry, or compliance information?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 9. Is the application submitted as a result of a Violation? NOV # _____   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 10. Is the application submitted as a result of other laws or regulations or policies?<br><i>Explain:</i> _____                                   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 11. Does the application affect the surface landowner or change the post mining land use?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2)                                |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 13. Does the application require or include collection and reporting of any baseline information?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 14. Could the application have any effect on wildlife or vegetation outside the current disturbed area?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 15. Does the application require or include soil removal, storage or placement?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 16. Does the application require or include vegetation monitoring, removal or revegetation activities?  |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 17. Does the application require or include construction, modification, or removal of surface facilities?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 18. Does the application require or include water monitoring, sediment or drainage control measures?  |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 19. Does the application require or include certified designs, maps or calculation?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 20. Does the application require or include subsidence control or monitoring?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 21. Have reclamation costs for bonding been provided?   |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream?  |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | 23. Does the application affect permits issued by other agencies or permits issued to other entities?   |

**Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you.** (These numbers include a copy for the Price Field Office)

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

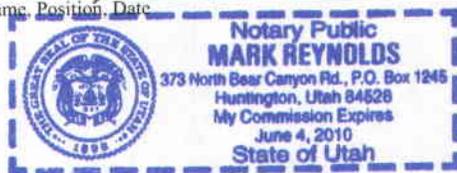
N. Finley  
Print Name

N. Finley V.P. 2-06-09  
Sign Name, Position, Date

Subscribed and sworn to before me this 6 day of Feb, 2009

[Signature]  
Notary Public

My commission Expires: 6-4, 2010  
Attest: State of Utah } ss:  
County of Beaver



**For Office Use Only:**

Assigned Tracking Number:

Received by Oil, Gas & Mining

**RECEIVED**

**FEB 12 2009**

**DIV. OF OIL, GAS & MINING**



Response to Deficiencies

**Deficiency 1**

**R645-303-321.300 and R645-301-111.400**

A signed and notarized letter of C. Gustafson's departure date was submitted to the Division. We will provide the Division with another copy.

No changes have been made to the officers or directors of C. O. P. Coal Development. We have not provided the Division with any information that would lead them to believe this. If the records in the AVS do not match the names in our MRP it is because the Division staff has made an error when entering the names. For example, Joseph O. Kingston has always been the president, and there has never been a Joseph D. Kingston working for C. O. P.

A.N.R. and C.O.P. are completely separate entities. As we have already said numerous times, there are no connections between the two companies.

**Deficiency 2**

**R645-303-321.300 and R645-301-112.200**

All references to C. W. Mining as the operator were removed from Chapter 1. These errors were found on pages 1-iii, 1-8, and 1-9.

**Deficiency 3**

**R645-321.300 and R645-301-133.300**

The Division of Oil, Gas, and Mining is the only entity that has issued Hiawatha Coal violations pertaining to air or water environmental protection. Below is a list of all violations received by Hiawatha Coal Company during the three years preceding the permit transfer.

Date	Citation #	Description
4-11-05	05-01-01-01	Errors with water monitoring data submitted to OGM
2-13-07	10004	Failure to display an identification sign
6-20-07	10006	Failure to maintain Slurry Pond #1 as designed
6-17-08	10023	Failure to properly control non-coal mine waste.
7-2-08	10026	Failure to maintain adequate bond coverage

**RECEIVED**

**FEB 12 2009**

**DIV. OF OIL, GAS & MINING**

C/015/025 Incoming  
cc: Priscilla

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# Hiawatha Coal Company

P.O. Box 1245  
Huntington, Utah 84528



Office (435) 687-2450  
FAX (435) 687-2084

February 6, 2009

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

To Whom It May Concern,

**Re: Permit Transfer Task ID #3022 Bear Canyon Mine, ACT/015/025**

The departure date for C. Gustafson was June 2008.

The officers for HCCI and their identification is

E. Finley	President	3988
N. Finley	Vice-President	0524
N. Finley	Secretary	0524

The officers for C.O.P Development and their identification is

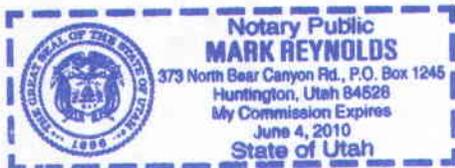
J.O. Kingston	President	0781
J.D. Kingston Jr.	Vice-President	0477
L. Kingston	Secretary	4936

If you have any questions, please call me at (435) 687-5238.

Thank You,

*Nate Finley*  
Nate Finley

Subscribed and sworn before me this 6 day of February, 2009



*[Handwritten Signature]*  
Notary Signature

## TABLE OF CONTENTS

### CHAPTER 1 GENERAL CONTENTS

#### LIST OF APPENDICES

<u>APPENDIX</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
Appendix A	Violation List .....	1A-1
Appendix B	Title Insurance Policy .....	1B-1
Appendix C	Insurance .....	1C-1
Appendix D	Affidavit of Publication .....	1D-1
Appendix E	Federal Leases.....	1E-1
Appendix F	Waiver Letters.....	1F-1
Appendix G	Pole Line Easement.....	1G-1

#### LIST OF TABLES

<u>TABLE</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
Table 1-1	Officers Authorized to Act on Behalf of <del>C.W. Mining Company</del> <u>Hiawatha Coal Company</u> .....	2
Table 1-2	Permits and Licenses.....	3
Table 1-3	Property Ownership .....	4
Table 1-4	Surface Disturbance Summary .....	12

#### LIST OF PLATES

Plate 1-1	Permit Area
Plate 1-2	Surface Ownership
Plate 1-3	Sub-Surface Ownership

# R645-301-100 GENERAL CONTENTS

## R645-301-112 Identification of Interests

### 112.100 Statement of corporation

~~C.W. Mining~~ **Hiawatha Coal** Company is a corporation, incorporated in the state of Utah. ~~C.W. Mining~~ **Hiawatha Coal** Company is the payer of the abandoned mine reclamation fee. Federal Identification Number: ~~87-0399230~~ **84-1418097**.

### 112.200-230 Names, addresses, and telephone numbers of the applicant, and the applicant's resident agent who will accept service of process.

Applicant: ~~C.W. Mining Company~~ **Hiawatha Coal Company, Inc.**  
~~53 W Angelo Ave~~ **5550 West Bear Canyon Road**  
~~Salt Lake City, UT 84115~~ **Huntington, UT 84528**  
~~(801) 486-5047~~ **(435) 687-5777**

Resident Agent ~~Charles Reynolds~~ **Elliot Finley**  
~~P.O. Box 1245~~ **5550 West Bear Canyon Road**  
~~Huntington, UT 84528~~ **Huntington, UT 84528**  
~~(435) 687-2450~~ **(435) 687-5777**

### 112.300 For Applicants other than single proprietorships:

### 112.310 Name and address of each officer, partner, principal, principal shareholder, and director or other person performing a function similar to a director

C.O.P Coal Development Company is the fee area and leaseholder of lands within the permit area. C.O.P. Coal Development Company has subleased all fee and federal coal rights to ~~C.W. Mining~~ **Hiawatha Coal** Company for inclusion in the Bear Canyon LMU. Federal Identification Number : 87-0491877

Corporate Office: C.O.P. Coal Development Co.  
3212 South State Street  
Salt Lake City, Utah 84115

Name	Title	Address
J. O. Kingston	President	53 West Angelo Ave, S.L.C., Ut. 84115
J. D. Kingston Jr.	Vice President	53 West Angelo Ave, S.L.C., Ut. 84115
Luanna Kingston	Sec./Treas.	53 West Angelo Ave, S.L.C., Ut. 84115

### 112.320 Not Applicable

**112.330 The title of the person's position, date position was assumed, and when submitted under R645-300-147.**

Table 1-1 Officers Authorized to Act on Behalf of ~~C.W. Mining~~ **Hiawatha Coal** Company

Name	Title	Address	Start Date
<del>B. W. Stoddard</del> Elliot Finley	President	<del>P.O. Box 300, Huntington, Ut 84528</del> 5550 West Bear Canyon Road, Huntington, UT 84528	<del>01/01/76</del> 06/30/97
<del>C. W. Reynolds</del> Nathaniel Finley	Vice Pres.	<del>P.O. Box 1245, Huntington, Ut 84528</del> 5550 West Bear Canyon, Huntington, UT 84528	<del>07/01/04</del> 06/30/97
<del>D. J. Sanders</del> Nathaniel Finley	Sec./Treas.	<del>53 West Angelo Ave., S.L.C., Ut 84115</del> 5550 West Bear Canyon Road, Huntington, UT 84528	<del>06/17/93</del> 06/30/97
<del>C. W. Reynolds</del> Elliot Finley	Res. Agent	<del>P.O. Box 1245, Huntington, Ut 84528</del> 5550 West Bear Canyon Road, Huntington, UT 84528	<del>07/01/04</del> 06/30/97

**112.340 All names under which the applicant operates or previously operated a coal mine and reclamation operation in the United States within the 5 years preceding the date of application.**

~~C.W. Mining is doing business as (DBA) Co Op Mining Company~~

Not Applicable

**112.350 Not Applicable**

**112.400 Pending, current, and previous coal mining and reclamation operation permit applications.**

~~C/015/021 Utah Division of Oil Gas and Mining~~  
C/015/025 Utah Division of Oil Gas and Mining  
C/007/011 Utah Division of Oil Gas and Mining

**112.410 Federal or State permit numbers and MSHA numbers, the date of issuance, and the regulatory authority.**

See Table 1-2 on the following page.

**112.420 Not Applicable**

An organizational structure of the Ownership and Control is outlined below.



There are no other entities that are owners of Hiawatha Coal Company as defined in R645-100-200 "Owned or controlled" and "owns or controls". C.O.P Development is the only controlling entity in regards to the Bear Canyon Permit as defined in R645-100-200 "Owned or controlled" and "owns or controls" subpart "b" section "6" "Owning or controlling coal to be mined by another person under a lease, sublease, or other contract and having the right to receive such coal after mining..."

In the past there has been some confusion as to the relationship between C. W. Mining Co. (dba Co-Op Mining Company) and Hiawatha Coal Company. To understand the past relationship between the companies it has to be understood that in order to hold a federal lease it has to be part of an active LMU approved by the BLM. The BLM governs the mine layout, mining method, and recovery rate. If a person interprets the definition of "permit area" to include underground workings as the Division did in the past this means the holder of the LMU is a controller of the coal in the federal leases as defined in R645-100-200 "Owned or controlled" and "owns or controls" subpart "b" section "6" "...having authority to determine the manner in which that person or another person conducts coal mining and reclamation operation."

When HCCI purchased the Hiawatha MRP (C/007/0011) the federal leases that were part of that permit were added to the Bear Canyon LMU held by Co-Op Mining Company so the Division required HCCI to list C. W. Mining (dba Co-Op Mining) as a controller in that permit.

In early 2008 the Division changed their interpretation of permit area to match the law, and legal precedence, thus it no longer has to include underground workings. Additionally, in June of 2008 HCCI purchased all assets held by C. W. Mining including the Bear Canyon LMU, and the name Co-Op Mining Company. Hiawatha Coal Company is now listed as the holder of the Bear Canyon LMU with the BLM.

**112.700 Mine associated structures MSHA numbers**

<u>Structure</u>	<u>MSHA ID No.</u>
Bear Canyon #1	Mine MSHA # 42-01697
Bear Canyon #2	Mine MSHA # 42-02095
Bear Canyon #3	Mine MSHA # 42-02263
Bear Canyon #4	Mine MSHA # 42-02335

**112.800 Interest in Lands, options, or bids for lands contiguous to the permit area.**

There are no current interests, options or pending bids for lands contiguous to the permit area.

**112.900 Not Applicable**

**R645-301-113 Violation Information**

**113.100 A statement as to whether the applicant has:**

**113.110 Had a federal or state coal mining permit revoked**

~~C. W. Mining Co.~~ Hiawatha Coal Co. has had no federal or state mining and reclamation permits revoked.

**113.120 Forfeited a performance bond or security deposit**

~~C. W. Mining Co.~~ Hiawatha Coal Co. has never forfeited a performance bond.

**113.200-240 Not Applicable**

**113.300-350 For any violation include the date of issuance and identity of the issuing regulatory authority. A brief description of the violation alleged in the notice. The date and location of any judicial proceeding initiated concerning the violation. The current status of the proceedings and of the violation notice. The actions taken by any person identified to abate the violation.**

Violation information for C. W. Mining Company is The Bear Canyon Mines are given in [Appendix 1-A](#)

**R645-301-114 Right of Entry Information**

**114.100-300 A description of the documents upon which the legal right to enter and begin coal mining and reclamation is based.**

The applicant's right to enter the lands and to conduct operations in the permit area is based on the documents listed below. (See Appendix 1-B)

1. Title or Title Insurance Policy
2. Deed or Trust Deed
3. Utah Business License
4. County Business License
5. Tax Commission License
6. Coal Leases
7. Etc.

A statement concerning the lease between C.O.P. and Co-Op to mine coal is found in [Appendix 1-B](#).

# CERTIFICATE OF LIABILITY INSURANCE

1/8/2009

**PRODUCER**  
**YOUNG INSURANCE GROUP LLC**  
 2580 West 4700 South  
 Taylorsville, UT 84118  
 (801) 417-8088  
 Hiawatha Coal Company  
 P.O. Box 1240  
 P.O. Box 1240  
 Huntington, UT 84528  
 (435) 687-5777

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC#
INSURER A: <b>AIG</b>	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INBR LTR	ADOL WARD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
<b>A</b>		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	GL 360-21-36 GL 360 21 36	1/1/2009 1/1/2009	1/1/2010 1/1/2010	EACH OCCURRENCE \$ <b>1,000,000</b>
						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b>
						MED EXP (Any one person) \$ <b>10,000</b>
						PERSONAL & ADV INJURY \$ <b>1,000,000</b>
						GENERAL AGGREGATE \$ <b>2,000,000</b>
						PRODUCTS - COMP/OP AGG \$ <b>1,000,000</b>
		GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EAACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

**BEAR CANYON MINE PERMIT # C-015-0025**  
**COVERAGE IS PROVIDED FOR DAMAGE INCURRED FROM THE USE OF EXPLOSIVES**

**CERTIFICATE HOLDER**

**DIVISION OF OIL, GAS, & MINING**  
 1594 WEST NORTH TEMPLE  
 BOX 145801  
 SALT LAKE CITY, UT 84114-5801  
 ATTN: PAM  
 FAX (801) 359-3940

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ~~NOTICE BY~~ MAIL **30** DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. ~~BY MAIL TO THE CERTIFICATE HOLDER~~

~~RECEIVED BY~~  
 AUTHORIZED REPRESENTATIVE  
*[Signature]*

AFFIDAVIT OF PUBLICATION

STATE OF UTAH)

ss.

County of Emery,)

I, Richard Shaw, 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 1 (One) consecutive issues, and that the first publication was on the 1st day of July, 2008 and that the last publication of such notice was in the issue of such newspaper dated the 1st day of July, 2008.

*Richard Shaw*

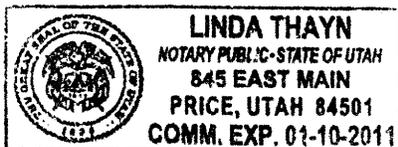
Richard Shaw - Publisher

Subscribed and sworn to before me this 1st day of July, 2008.

*Linda Thayne*

Notary Public My commission expires January 10, 2011 Residing at Price, Utah

Publication fee, \$ 107.28



**NOTICE**

Co-Op Mining Company, PO Box 1245, Huntington, UT, 84528 hereby announces its intent to transfer Permit No. C/015/025, originally issued November 1, 1985 and last renewed November 2, 2005 to Hiawatha Coal Company. 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:

- A. T16S, R7E 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
- Sec. 26 N1/2NE1/4, N1/2SW1/4NE1/4 and the access/haul road as shown on Plate 1-1 of the Bear Canyon Mining and Reclamation Plan
- T16S, R8E SLBM      Sec. 6 Lots 11-14, E1/2 SW1/4, W1/2 SE1/4, SE1/4 SE1/4
- Sec. 7 All
- Sec. 8 W1/2, W1/2E1/2
- Sec. 16 All
- Sec. 17 All
- Sec. 18 All
- Sec. 19 N1/2, SW1/4, N1/2SE1/4, SW1/4SE1/4
- Sec. 20 N1/2, N1/2SW1/4, NE1/4SE1/4
- Sec. 21 N1/2, SE1/4, N1/2SW1/4, SE1/4SW1/4
- Sec. 30 W1/2, W1/2 NE1/4, NW1/4 SE1/4
- Sec. 31 NE1/4 NW1/4, NW1/4 NE1/4

Written comments, objections, or requests for informal conference should be directed to the Utah Division of Oil, Gas, & Mining, PO Box 145801, Salt Lake City, Utah, 84114-5801. Copies of the transfer current mining plan 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 July 1, 2008.

C.O.P. COAL DEVELOPMENT COMPANY  
53 West Angelo Avenue  
Salt Lake City, Utah 84115

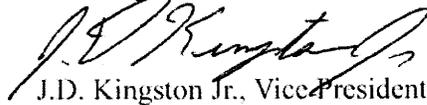
August 19, 2008

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

To Whom it may concern,

Please be advised that C.O.P. Coal Development Company is the record owner of the fee ground and Federal Coal Lease #'s 020668, 024316, 024318, 38727, 46484, 61048 and 61049, located in Bear Canyon, Emery County, Utah, which includes all of the real property involved in Permit No. Act/015/025. C.O.P. is currently leasing all of the property to Hiawatha Coal Company and the lease permits Hiawatha Coal Company to use the land for coal mining and related activities. This lease agreement will automatically be extended without amendments unless either party gives 30 days written notice of cancellation.

Sincerely,



J.D. Kingston Jr., Vice President  
C.O.P. Coal Development Company

Agreement

This agreement made and entered in this 19 day of August 2008, by and between C.O.P. Development (C.O.P.) and Hiawatha Coal Company, a Utah Corporation, (Hiawatha Coal) WHEREAS, there is an existing road in emery county known as Bear Canyon Road, and WHEREAS, Hiawatha Coal requires extensive use of said road, and WHEREAS, C.O.P. Is the owner of the private portion of the road, NOW, THEREFORE, be it agreed as follows:

1. The parties hereto agree and acknowledge that the southern 0.65 Miles of the road known as Bear Canyon Road is a county road. Said county road runs from State Road 31 in a northerly direction for approximately 0.65 Miles to a presently existing gate. Thereafter the road is a private road owned by C.O.P.
2. Hiawatha Coal will indemnify and defend C.O.P. For any damage caused, or loss incurred to or claim made by any public or private individual, firm, group, association, partnership or corporation as a result of any mining related activities conducted on the private road.
3. Hiawatha Coal agrees to allow access to other property served by Bear Canyon Road. Said access shall be allowed to the owner of the property, their successor in interest or any other individual, firm, group, association, partnership or corporation who requires access due to their association with the owner or because the owner has granted permission to the individual, firm, group, association, partnership or corporation to go upon his property. Hiawatha Coal will not withhold access due to the type of activity which the then owner or his agents, employees or invitees intend to or in fact conduct.
4. It is further understood that any additional improvements of Bear Canyon Road will be at the expense of all primary users.
5. Hiawatha Coal agrees to reclaim the private Bear Creek Road according to the specifications outlined below.
  - a) Hiawatha Coal will completely reclaim all portions of the road except those areas required for access to the hunting cabin.
  - b) Hiawatha Coal will leave the road access to the hunting cabin at least 20 feet wide and at a slope not greater than 20%.
  - c) Hiawatha Coal agrees to leave all upgrades to the hunting cabin access road in place. These upgrades include, but are not limited to road base, asphalt, concrete, and drainage controls.
  - d) C.O.P. Reserves the right to require Hiawatha Coal to leave any additional portions or all portions of Bear Canyon Road intact post-mining at C.O.P.'s discretion.

IN WITNESS WHEREOF, this agreement is executed the day and year above.

C.O.P. Development

By J. D. King  
Officer C.O.P. Development

IN WITNESS WHEREOF this agreement is executed at Huntington, Utah. Dated this 19 day of August 2008

Hiawatha Coal company

By N. Finley  
Officer Hiawatha Coal