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State of Utah

DEPARTMENT OF NATURAL RESOURCES

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Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Outgoing
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OK

April 2, 2009

CERTIFIED RETURN RECEIPT REQUESTED

7004 2510 0004 1824 9689

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SUBJECT: Decision regarding application for Permit Transfer for the Bear Canyon Mine C/015/0025, Task ID #3215

Dear Sirs:

On August 4, 2008, the Division received an application from Hiawatha Coal Company, Inc. (Hiawatha) for transfer of C.W. Mining's permit No. C/015/0025 (Bear Canyon Mine) to Hiawatha Coal Company. Notice of the intent to transfer the permit was made in the Emery County Progress on July 1, 2008, which was well before the Division received the transfer application. Thereafter, on August 8, 2008 the Division was advised of a bankruptcy proceeding and of the issuance of an order from the bankruptcy court restricting C.W. Mining from taking further actions to complete the transfer prior to notice and further hearings by the court.



While the bankruptcy proceedings continued, the Division proceeded to review Hiawatha's application. After several iterations, the required ownership and control information was provided. Since November 20, 2008, or earlier Hiawatha was advised that it must obtain a bond prior to Division approval and transfer of the permit. Despite numerous demands and extensions, no bond was provided and consequently Cessation Order #10034 was issued on February 5, 2009.

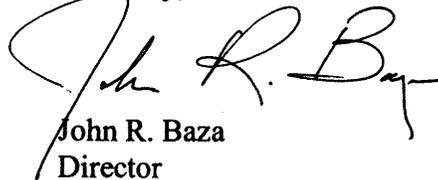
The Cessation Order allowed for abatement by Hiawatha in the event that it was able to provide the required surety, and if the Division approved transfer of the permit. The CO provided that such an approval of the transfer by the Division, if any, would be subject to all further orders of the bankruptcy court granting or denying approval of transfer of the permit from C. W. Mining Co. to Hiawatha.

On March 18, 2009 the bankruptcy court issued its Memorandum Decision in which it determined that the purported June 24, 2008 sale to Hiawatha was in violation of the court's prior Orders and that the assets of C.W. Mining, including the operating agreement and the permit, are property of the bankruptcy estate and subject to the trustee's rights to liquidate the assets of C.W. Mining and/or to assume or transfer the operating agreement and permit.

It is no longer possible for Hiawatha to complete the sale and transfer of the assets and mine permit pursuant to application submitted in furtherance of the June 24, 2008 sale agreement. Accordingly the Division does hereby deny the application for transfer of the Bear Canyon permit # C/015/0025 from C.W. Mining to Hiawatha.

You have the right to appeal this decision denying the transfer of the permit pursuant to Utah Code §40-10-30(1) and R645-300-211 Utah Administrative Code by filing a request for agency action in accordance with the Rules of the Board within 30 days of the notice of this decision.

Sincerely,



John R. Baza
Director

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