

OGMCOAL - Re: Castle Valley Mining, LLC, Bear Canyon Mine

From: Angela Nance
To: jestover@bresnan.net
Date: 9/21/2010 12:23 PM
Subject: Re: Castle Valley Mining, LLC, Bear Canyon Mine
CC: OGMCOAL
Attachments: rec_agreement2009.doc; Exhibit_A2009final.doc; Exhibit_B2009.doc; PERMITTEEAFFIDAVIT OF QUALIFICATION.doc; SURETYAFFIDAVIT OF QUALIFICATION.doc

Hi Jim,

Attached please find the documents you requested to post a 1.825 million dollar surety bond for the Bear Canyon Mine, as well as the Reclamation Agreement. Please note that the Reclamation Agreement refers to an Exhibit "D", which is not necessary at this time since this is a new Agreement rather than an addendum to an existing agreement.

Below is a list of each attached item with brief instructions for completing:

Reclamation Agreement - complete and sign.

Exhibit "A" - Bonded Area Legal Description - complete and have signed by Surety Company.

Exhibit "B" - Surety Agreement - completed and signed by Permittee and Surety Company.

**Surety Company must be licensed to do business in Utah and be listed in A.M. Best's Key Rating Guide with an A- or better.*

Exhibit "C" - nothing attached - simply provide a copy of the Certificate of Liability Insurance

**must be issued by an insurance company authorized to do business in Utah. The policy must include a rider requiring the insurer to notify the Division whenever substantive changes are made to the policy.*

Affidavit of Qualification for the Permittee

Affidavit of Qualification for the Surety

If you have any questions, please feel free to contact me.

Thank you,

Angela Nance
Business Analyst
angelanance@utah.gov
(801) 538-2564

>>> "Jim Stover" <jestover@bresnan.net> 9/20/2010 3:29 PM >>>
Angela:

I am preparing an application to change the operator for the Bear Canyon Mine. Castle Valley Mining LLC will need to post a 1.825 million dollar bond and reclamation agreement. Could you send me a bond form and reclamation agreement or let me know where they are available on-line. Castle Valley Mining LLC

intends to use a Surety Bond.

Jim Stover
J. E. Stover & Associates, Inc.
2352 N 7th St Unit B
Grand Junction, CO 81501
Phone 970-245-4101
Fax 970-242-7908

EXHIBIT “A”

Bonded Area Legal Description

(Federal Coal)

Exhibit "A"
Legal Description
Federal
Bond Number _____

EXHIBIT "A"

Pursuant to R645-301- 820.110, the surety bond covers an identified increment of land within the permit area upon which the operator will initiate and conduct coal mining and reclamation operations during the initial term of the permit. This area is identified as:

Map(s) showing the BONDED AREA within the approved PERMIT AREA :

Legal description of BONDED AREA:

The above described area shall be modified as necessary to correspond to an increase in the area disturbed as a result of an expansion of coal mining and reclamation operations. The described area may also be decreased as a result of partial reclamation.

IN WITNESS WHEREOF the **SURETY** has hereunto set its signature and seal this

_____ day of _____, 20__.

SURETY

By:

Title:

EXHIBIT “B”

**Bonding Agreement
Surety Bond**

(Federal Coal)

Surety Bond Number _____

EXHIBIT "B"
SURETY BOND
(FEDERAL COAL)
--ooOOoo--

This **SURETY BOND** entered into and by and between the undersigned **PERMITTEE/PRINCIPAL** _____, and **SURETY** _____, hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns unto the State of Utah, Division of Oil, Gas and Mining (hereafter referred to as the "**DIVISION**"), and the U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement (hereafter referred to as "**OSM**") in the penal sum of _____ (\$) (Surety Bond Amount) for the timely performance of reclamation responsibilities of the Permittee in the Bonded Area described in Exhibit "A" of that certain **RECLAMATION AGREEMENT**, dated the _____ day of _____, 20__ by and between the **DIVISION** and the **PERMITTEE/PRINCIPAL**.

This **SURETY BOND** shall remain in effect until all of the **PERMITTEE'S/PRINCIPAL'S** reclamation obligations have been met and released by the **DIVISION** with the concurrence of **OSM** and is conditioned upon faithful performance of all of the requirements of the Utah Coal Mining Reclamation Act, Utah Code Ad. §40-12-2 et. seq. (the **ACT**), the Surface Mine Control and Reclamation Act ("**SMCRA**"), and all lawful regulation adopted under the authority of those statutes, and the approved Permit (which is based upon the approved Permit Application Package).

The **SURETY** will not cancel this bond at any time for any reason, including non-payment of premium or bankruptcy of the **PERMITTEE/PRINCIPAL** during the period of liability.

The **SURETY** and their successors and assigns, agree to guarantee the obligation and to indemnify, defend, and hold harmless the **DIVISION** and **OSM** from any and all expenses which the **DIVISION** may sustain as a result of the **PERMITTEE'S/PRINCIPAL'S** failure to comply with the condition(s) of the reclamation obligation.

The **SURETY** will give prompt notice to the **PERMITTEE/PRINCIPAL**, the **DIVISION** and **OSM** of any notice received or action alleging the insolvency or bankruptcy of the **SURETY**, or alleging any violations or regulatory requirements which could result in suspension or revocation of the **SURETY'S** license.

Upon incapacity of the **SURETY** by reason of bankruptcy, or suspension or revocation of license, the **PERMITTEE/PRINCIPAL** shall be deemed to be without Bond coverage in violation of state and federal law and subject to enforcement in accordance with **SMCRA**, the **ACT**, and the applicable regulations.

Surety Bond Number _____
Mine Name/Number _____

The terms for release of this **BOND** are as written and agreed to by the **DIVISION** and the **PERMITTEE/PRINCIPAL** in the **RECLAMATION AGREEMENT**, incorporated by reference herein, to which this **SURETY AGREEMENT** has been attached as Exhibit "B".

In the event the Utah Cooperative Agreement is terminated, this **SURETY BOND** shall be payable only to the OSM to the extent that lands covered by the Federal Lands Program are involved and otherwise to the **DIVISION**.

IN WITNESS WHEREOF, the **PERMITTEE/PRINCIPAL** has hereunto set its signature and seal this _____ day of _____, 20__.

PERMITTEE/PRINCIPAL

By: _____

Title: _____

IN WITNESS WHEREOF, the **SURETY** has hereunto set its signature and seal this _____ day of _____, 20__.

SURETY

By: _____

Title: _____

SURETY BONDING AGREEMENT ACCEPTED BY THE STATE OF UTAH:

Director
Division of Oil, Gas and Mining

NOTE: An **Affidavit of Qualification** must be completed and attached to this form for each authorized agent\or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with the Agreement. If the **PERMITTEE** is a corporation, the Agreement shall be executed by its duly authorized officer.

State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5340

(Federal)

Contents:

Reclamation Agreement

Exhibit "A"
Bonded Area

Exhibit "B"
Bonding Agreement
Surety Bond

Exhibit "C"
Liability Insurance

Affidavits of Qualification

Power of Attorney

Exhibit "D"
Stipulation to Revise Reclamation Agreement

Permit Number: _____
Date Original Permit Issued: _____
Effective Date of Agreement: _____
Bond Number: _____

RECLAMATION AGREEMENT

This **RECLAMATION AGREEMENT** (hereafter referred to as "Agreement") is entered into by _____ (hereafter referred to as the "Permittee") and the State of Utah, Department of Natural Resources, Division of Oil, Gas and Mining (hereafter referred to as the "Division").

For the purpose of the **AGREEMENT** the information provided below, shall constitute forms of definition or are for information regarding the Permittee or its operations.

"ACT": Title 40-10-1, et. seq., Utah Code Annotated (1953, as amended)

"BOND": A bond in compliance with Utah Administrative Rule 645-301-800, et. seq.

"BOND AMOUNT":

"BONDED AREA": The area covered by the Performance Bond as provided at R645-301-820.110 of the Utah Administrative Code and any additional areas of subsidence related material damage as identified and required by R645-301-525.550 of the Utah Administrative Code.

"BOND TYPE":
Bonding Company:
Address:
Telephone Number:

"COMPANY OFFICERS":

"COOPERATIVE AGREEMENT": That certain agreement codified at 30 C. F. R. 944.30

"DISTURBED AREA": This term is defined in Utah Administrative Code R645-100-200. The Permittee and the Division contemplate that the Disturbed Area will be as approved and shown in the Permit Application Package, but the Permittee's reclamation obligation and the bond related thereto are governed by applicable law.

"LIABILITY INSURANCE": Public liability insurance policy submitted

as part of the permit application and attached as Exhibit "C".

Insurance Company:
Address:
Telephone Number:
Policy Number:
Expiration Date:

Bond Number _____

"MINE":

"OSM": United States Department of the Interior,
Office of Surface Mining Reclamation and Enforcement.

"PERMIT": Utah Mining and Reclamation Permit No.

"PERMITTEE":

Principal Address:
Utah Address:
Telephone Numbers:

"PERMITTEE'S UTAH REGISTERED AGENT FOR SERVICE OF PROCESS":

"REGULATIONS": The regulations promulgated by the Division
and OSM pertaining to coal mining and reclamation activities.

"SMCRA": The Surface Mining Control and
Reclamation Act of 1977, 30 U.S.C. §§ 1201, et. seq.

"SURETY":

The following Exhibits are incorporated within and made a part of this Agreement.

EXHIBITS:

"BONDED AREA"	Exhibit "A"
"BONDING AGREEMENT"	Exhibit "B"
"LIABILITY INSURANCE"	Exhibit "C"

WHEREAS, the Permittee is ready and willing to file the Bond in the amount and in a form acceptable to the Division and to perform all obligations imposed by the Division pursuant to applicable laws under the permit; and

NOW, THEREFORE, the Division and the Permittee agree as follows:

1. The provisions of SMCRA, the Act and the Regulations are incorporated by reference herein and hereby made a part of this Agreement. Provisions of the Act or Regulations and Rules shall supersede conflicting provisions of this Agreement.
2. The Permittee agrees to comply with all terms and provisions of this Agreement, the Permit (which is based upon the approved Permit Application Package), the Act and the Regulations, including the reclamation of all areas disturbed by surface coal mining and reclamation operations, despite the eventuality that the costs of actual reclamation exceeds the Bond Amount.
3. The Permit Application Package includes a legal description of the Bonded Area, including the number of acres approved by the Division to be disturbed by surface mining and reclamation operations during the Permit period. For convenience, a copy of the description of the Bonded Area is attached as Exhibit "A", and is incorporated by reference.
4. The Permittee agrees to provide a Bond to the Division in the form and amount acceptable to the Division ensuring the timely performance of the reclamation obligations in the manner and by the standards set forth in this Agreement, the Permit, (which is based upon the Permit Application Package), the Act and the Regulations. The Bond is attached as Exhibit "B" and is incorporated by reference.
5. The Permittee agrees to maintain in full force and effect the Liability Insurance policy submitted as part of the Permit application and which is described in the attached Exhibit "C". The Division shall be listed as an additional insured on this policy.
6. In the event that the Disturbed Area is increased through expansion of the coal mining and reclamation operations or decreased through partial reclamation, the Division shall adjust the Bond as appropriate in accordance with applicable law. In the event of material damage to the surface lands, or contamination, diminution, or interruption of a protected water supply caused by subsidence from underground coal mining, the Permittee may be required by the Division to increase the bond amount pursuant to the provisions of R645-301-525.550 of the Utah Administrative Code.
7. The Permittee does hereby agree to indemnify and hold harmless the State of Utah and the Division, and their respective employees and agents, from any claim, demand, liability, cost, charge, or suit initiated by a third party as a result of the Permittee or

Permittee's agents or employees failure to abide by the terms and conditions of the approved Permit (which is based upon the approved Permit Application Package), and this Agreement. In the event the Cooperative Agreement is terminated, this paragraph will inure to the benefit of OSM with respect to Federal Lands, and otherwise to the benefit of the Division.

8. The terms and conditions of this Agreement are non-cancelable until such time as the Permittee has satisfactorily, as determined by the Division, reclaimed the Disturbed Area in accordance with this Agreement, the approved Permit (which is based upon the approved Permit Application Package), the Act, and the Regulations. Notwithstanding the above, the Division may direct, or the Permittee may request and the Division may approve a written modification to this Agreement in accordance with applicable law.
9. The Permittee may, at any time, submit a request to the Division to substitute the bonding method. The Division may approve the substitution if the new Bond form meets the requirements of the Act, and the Regulations, but no Bond shall be released until the Division has approved and accepted the replacement Bond.
10. This Agreement shall be governed and construed in accordance with the laws of the state of Utah. The Permittee shall be liable for all reasonable costs incurred by the Division to enforce this Agreement.
11. Any breach of the provisions of this Agreement, the Act, the Regulations, or the Permit (which is based upon the approved Permit Application Package) may, at the discretion of the Division, result in enforcement actions by the Division which include, but are not limited to, an order to cease coal mining and reclamation operations, revocation of the Permittee's Permit and forfeiture of the Bond.
12. In the event of forfeiture of the Bond, the Permittee agrees to be liable for additional costs in excess of the Bond Amount which may be incurred by the Division in order to comply with the Permit (which is based upon the approved Permit Application Package), the Act, and the Regulations. Any excess monies resulting from the forfeiture of the Bond, upon compliance with this Agreement, shall be refunded as directed by the Permittee or, if a dispute arises, as directed by a court of competent jurisdiction by interpleading the funds subject to the dispute.
13. No delay on the part of the Division in exercising any right, power, or privilege, under the Permit, the Bonding Agreement (Exhibit "B") and/or this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege thereof preclude other or further exercise of any right, power or privilege. The provisions of this Agreement are severable, and if any provision of this Agreement, or the application of any provision of this Agreement, to any circumstances is held invalid, the application of such provision to other circumstances, and the remainder of this

Agreement, shall not be affected thereby.

14. Each signatory below represents that he/she is authorized to execute this Agreement on behalf of the named party. Proof of such authorization is provided on a form acceptable to the Division and is attached thereto.

SO AGREED this _____ day of _____, 20____.

STATE OF UTAH:

Director,
Division of Oil, Gas and Mining

PERMITTEE:

By: _____

Title: _____

NOTE: An affidavit of Qualification must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with this Agreement. If the principal is a corporation, the Agreement shall be executed by its duly authorized officer.

