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Outgoing
C0150025
#3584
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State of Utah

**Department of
Natural Resources**

MICHAEL R. STYLER
Executive Director

**Division of
Oil, Gas & Mining**

JOHN R. BAZA
Division Director

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

November 2, 2010

Kenneth A. Rushton, Trustee
99 W. Main Street
P.O. Box 212
Lehi, Utah 84043

Subject: Five-Year Permit Renewal, Bear Canyon Mine, Co-Op Mining Company
aka C.W. Mining, d/b/a Kenneth A. Rushton, Bankruptcy Trustee,
C/015/0025, Task #3584, Outgoing File

Dear Mr. Rushton:

The permit renewal for the Bear Canyon Mine is approved. Enclosed are two (2) copies of the renewed permanent program permit for the Bear Canyon Mine. Please review the permit and the enclosed findings, taking special note of the attached conditions.

Please have both permits signed by the designated signatory authority and return one signed copy to the Division.

Thank you for your help during the renewal process. If you have any questions, please call me.

Sincerely,


John R. Baza
Director

JRB/sqs
Enclosures
cc: James Fulton, OSM, WRCC
O:\015025.BCN\PERMIT\2010\BazaLetter.doc

UTAH DIVISION OF OIL, GAS AND MINING
STATE DECISION DOCUMENT

For
PERMIT RENEWAL

Bear Canyon Mine
Co-Op Mining Company
C/015/0025
Emery County, Utah

November 2, 2010

Contents

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ADMINISTRATIVE OVERVIEW

Bear Canyon Mine Permit Renewal
Co-Op Mining Company
C/015/0025

November 2, 2010

Background

The Bear Canyon Mine was originally permitted by Co-Op Mining Company (aka CW Mining) 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 26, 2005, the Division approved a minor amendment to add a 40-acre Incidental Boundary Change (IBC) to federal lease U-38727.

On April 5, 2007 the Division approved the addition of private and federal leases associated with the Morhland area for an addition of 7591.29 acres to the Bear Canyon Mine permit area. This addition received federal mine plan approval on July 3, 2007.

Room and pillar mining occurs in the Bear Canyon seam (middle seam) the Hiawatha seam (lower seam) and the Tank Seam. The permit area now encompasses 10991.83 acres and the disturbed area is 40.46 acres.

In June of 2008, CW Mining, permittee and operator of the Bear Canyon Mine, attempted a sale of the mine to Hiawatha Coal Company. Hiawatha Coal Company approached the Division of Oil, Gas, and Mining in July of 2008 for a permit transfer. The transfer was complicated by an involuntary bankruptcy petition filed by a creditor of CW Mining, and reluctance by the surety company to transfer the bond coverage.

In April of 2009, the Bankruptcy Court declared that the sale of the mine and assets to Hiawatha Coal Company was not valid and the Trustee retains rights to the mine and all assets of CW Mining. Subsequently, the Division denied the permit transfer.

The Trustee of the Bankruptcy Court, Ken Rushton, is now acting as CW Mining and is the permittee for Bear Canyon. A bond is in place for CW Mining and continues to be held. A sales agreement has been signed by Rhino Energy and the Division is currently processing a transfer application that will assign the permit to Castle Valley Mining LLC. Even though the transfer has not been completed, the renewal will go forward and then the transfer will occur after the necessary steps have occurred.

Public Notice and Informal Conference

The applicant submitted the permit renewal application on June 30, 2010. The application was determined administratively complete on September 28, 2010. The applicant published notice for the five-year permit renewal for four consecutive weeks in the Emery County Progress, ending on October 26, 2010. Because of some miss-communication, the public notice was not started in time for the comment period to be completed prior to the time that the renewal is due. Since the Bear Canyon Mine permit expires on November 2, 2010, the Division will renew the permit on that date, with the condition that if an objection letter is received and an informal conference requested CW Mining Company must comply with any Order issued as a result of the Informal Conference for this permit renewal. The end of the public comment period is November 29, 2010.

Compliance Review

As of November 2, 2010, there were 4 outstanding Notices of Violation and 1 Cessation Order issued by the State of Utah that had not been totally resolved. Due to various factors including an attempted change in ownership and the involuntary bankruptcy, there was confusion as to who was responsible for the violations. In order to move the renewal along, the Trustee, Kenneth A. Rushton made payment on three of the violations (#10031, #10037 & #10068), which resolves them. The other notice of violation (#10066) is the subject of an assessment conference and therefore is still pending. The Cessation Order (#10034) is the subject of an ongoing appeal before the Board of Oil, Gas & Mining.

A check of the OSM Applicant Violator System database also shows four outstanding AML debts tied to Co-Op Mining Co. and Hiawatha Coal Company Incorporated. These debts are all in the process of being settled. A payment assurance letter was submitted by Mr. Kenneth A. Rushton, Trustee, which verifies that he will promptly seek permission from the U. S. Bankruptcy Court for the District of Utah to pay the outstanding AML fees and an administrative expense of the Debtor's bankruptcy estate.

All outstanding compliance actions have either been resolved or are part of ongoing litigation. All outstanding AML debts are also the subject of an arranged payment agreement. With these pending actions the Bear Canyon Mine is considered to be in compliance.

Recommendation for Approval

The Division made the decision on November 2, 2010 to approve the permit renewal for five years based on the fact that 1) The terms and conditions of the existing permit are being satisfactorily met; 2) The present coal mining and reclamation operations are in compliance with the environmental protection standards of the State Program; 3) The renewal does not substantially jeopardize the operator's continuing ability to comply with the State Program on existing permit areas; and 4) The operator has provided evidence of having liability insurance and a performance bond which will be in effect for the operation and will continue in full force and effect. 5) The trustee of the permittee has made arrangement for the payment of the outstanding AML fees associated with this permit. 6) The permit is conditioned with the requirement to comply with any order issued as a result of an Informal Conference held as a result of this permit renewal. The end of the public comment period is November 29, 2010.

CHRONOLOGY

Bear Canyon Mine Permit Renewal
Co-Op Mining Company
C/015/0025
November 2, 2010

- June 30, 2010 Co-Op Mining Company submits permit renewal application.
- September 28, 2010 The application is determined administratively complete.
- September 30, 2010 The Division notifies local, state, and federal agencies as well as water users that the permit renewal application for the Bear Canyon Mine is administratively complete.
- October 5, 12, 19
and 26, 2010 Co-Op Mining Company advertises public notice of permit renewal for the Bear Canyon Mine for four consecutive weeks in the Emery County Progress.
- November 29, 2010 The end of the public comment period.
- November 2, 2010 Division renews the Bear Canyon Mine permit.

PERMIT RENEWAL FINDINGS

Bear Canyon Mine
Co-Op Mining Company
C/015/0025

November 2, 2010

1. The permit renewal term will not exceed the original permit term of five years (R645-303-234).
2. The terms and conditions of the existing permit are being met. (R645-303-233.110).
3. The present coal mining and reclamation operations are in compliance with the environmental protection standards of the Act and the Utah State Program. (R645-303-233.120).
4. The requested renewal will not substantially jeopardize the operator's continuing ability to comply with the Act and the Utah State Program. (R645-303-233.130).
5. The operator has provided evidence of maintaining liability insurance in full effect (National Union Fire Ins Co of Pittsburgh PA Policy #GL0936045)(R645-303-233.140).
6. The operator has a Surety Bond on file with the Division and has provided evidence that this instrument will remain in full effect. (Surety Bond #L06-01-C-015-025 in the amount of \$1,825,000 issued by Lyndon Property Insurance Company) (R645-303-233.150).
7. The operator has submitted all updated information as required to date, by the Division through this permit term. (R645-233.160).



Permit Supervisor



Associate Director of Mining



Director

FEDERAL

**PERMIT
C/015/0025**

November 2, 2010

**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)
d/b/a Kenneth A. Rushton, Bankruptcy Trustee
99 W. North Main Street
P.O. Box 212
Lehi, Utah 84043**

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;

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 conditions of the leases, the approved mining plan, including all conditions and all other applicable conditions, laws and regulations.

Sec. 3 COMPLIANCE - The Permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.

Sec. 4 PERMIT TERM - This permit becomes effective on November 2, 2010 and expires on November 2, 2015.

Sec. 5 ASSIGNMENT OF PERMIT RIGHTS - The permit rights may not be transferred, assigned or sold without the approval of the Director, DOGM. 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 DOGM, 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 DOGM 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 DOGM. DOGM, after coordination with OSMRE, shall inform the Permittee of necessary actions required. The Permittee shall implement the mitigation measures required by DOGM within the time frame specified by DOGM.

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 DOGM and the Permittee at any time to adjust to changed conditions or to correct an oversight. DOGM 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. By
Date: 11/2/2010

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

Authorized Representative of the Permittee

Date: _____

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. This permit becomes effective on November 2, 2010. The end of the public comment period is November 29, 2010. The permittee will comply with the requirements of any order of an informal conference as a result of this permit renewal.
3. Co-Op Mining Company will comply with the terms of the payment assurance letter dated November 2, 2010 and supplied to the Division of Oil, Gas & Mining by Kenneth A. Rushton, Trustee.
4. 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.



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Oil, Gas & Mining

MICHAEL R. STYLER
Executive Director

JOHN R. BAZA
Division Director

November 2, 2010

TO: Internal File

FROM: Daron R. Haddock, Permit Supervisor *RDH*

RE: Compliance Review for Section 510 (c) Findings – Bear Canyon Mine, Co-Op Mining Company aka C.W. Mining, C/015/0025, Task ID #3584

As of the writing of this memo, there are no NOVS or COs which are not corrected or in the process of being corrected. There are no finalized Civil Penalties, which are outstanding and overdue in the name of Co-Op Mining Company aka C.W. Mining. Co-Op Mining Company does not have a demonstrated pattern of willful violations, nor have they been subject to any bond forfeitures for any operation in the state of Utah.

The recommendation from the Applicant Violator System (AVS) denotes that all connected entities either do not have any civil penalties or are under a settlement agreement (attached).

O:\015025.BCN\PERMIT\2010\AVSMEMO.DOC

Application Evaluation

Application Number ACT015025
 Applicant Name 089059 Co Op Mining Co
 Date of Evaluation 11/3/2010 3:06:46 PM
 Requested Individual amy.willoughby

CAUTION: The Applicant/Violator System (AVS) is an informational database. Permit eligibility determinations are made by the regulatory authority with jurisdiction over the permit application not by the AVS. Results which display outstanding violations may not include critical information about settlements or other conditions that affect permit eligibility. Consult the AVS Office at 800-643-9748 for verification of information prior to making decisions on these results.

4 Violations Found.

1: AML	<u>ACT/007/011</u>	UT	Permit:ACT007011	Outstanding	6/30/2009
Violator 1:	144578 Hiawatha Coal Company Incorporated				
2: AML	<u>ACT/007/011</u>	UT	Permit:ACT007011	Outstanding	9/30/2009
Violator 1:	144578 Hiawatha Coal Company Incorporated				
3: AML	<u>ACT/015/025</u>	UT	Permit:ACT015025	Outstanding	6/30/2009
Violator 1:	089059 Co Op Mining Co				
Violator 2:	144578 Hiawatha Coal Company Incorporated				
4: AML	<u>ACT/015/025</u>	UT	Permit:ACT015025	Outstanding	9/30/2009
Violator 1:	089059 Co Op Mining Co				
Violator 2:	144578 Hiawatha Coal Company Incorporated				

Evaluation OFT

Entities: 15

- 132153 COP Coal Devl Co - ()
- 132155 Joseph D Kingston - (President)
- 247909 Luana Kingston - (Director)
- 247909 Luana Kingston - (Secretary)
- 247909 Luana Kingston - (Treasurer)
- 247910 Carl E Kingston - (Member)
- 247907 ANR Company Incorporated - ()
- 134509 C W Mining Co - (Subsidiary Company)
- 071172 John A Gustafson - (Vice President)
- 089059 Co Op Mining Co - (Subsidiary Company)
- 071170 B W Stoddard - (Director)
- 071170 B W Stoddard - (Partner)
- 071170 B W Stoddard - (President)
- 071172 John A Gustafson - (Director)
- 071172 John A Gustafson - (Partner)
- 071172 John A Gustafson - (Secretary)
- 071172 John A Gustafson - (Vice President)
- 089134 Ruth L Brown - (Partner)
- 089134 Ruth L Brown - (Vice President)
- 120991 Wendell J Owen - (Partner)
- 137875 Dorothy J Sanders - (Director)
- 137875 Dorothy J Sanders - (Secretary)
- 137875 Dorothy J Sanders - (Treasurer)
- 137875 Dorothy J Sanders - (Director)
- 247904 Charles W Reynolds - (Director)
- 247904 Charles W Reynolds - (President)
- 250505 Maurine O Gustafson - (Secretary)
- 250505 Maurine O Gustafson - (Treasurer)
- 247908 J O Kingston - (Director)
- 247908 J O Kingston - (President)

Narrative 11/3/10 - Violations 1- 4, all AML debts, are in the process of being settled. A payment assurance letter was submitted from the Kenneth A. Rushto, Trustee, to Utah division of Oil Gas & Mining. aw

KENNETH A. RUSHTON
U. S. Bankruptcy Trustee
99 West Main Street, P.O. Box 212
Lehi, Utah 84043

02 November 2010

Via e-mail to daronhaddock@utah.gov

Utah Division of Oil Gas & Mining
Att'n: Daron Haddock
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Re: *Permit Renewal Application, Bear Canyon Mine, C/015/0025 (the
"Permit")
AML Fees – Payment Assurance*

Dear Mr. Haddock:

I am writing this letter in connection with the pending approval by the Utah Division of Oil, Gas and Mining (the "*Division*") of the application for renewal (the "*Renewal Application*") of the Permit, which was filed with the Division on my behalf on or about 02 July 2010. I am the Chapter 7 Bankruptcy Trustee (the "*Trustee*") for C. W. Mining Company (the "*Debtor*"), which is the designated permittee of the Bear Canyon Mine (the "*Mine*"). Today, I was informed that Hiawatha Coal Company, Inc. ("*Hiawatha*"), while in wrongful possession of the Mine, incurred and has not since paid Abandoned Mine Lands fees ("*AML Fees*") attributable to the Mine. The amount of fees due from Hiawatha as identified by the federal Office of Surface Mining is \$67,814.58, plus additional penalties and interest, which includes coal that Hiawatha wrongfully extracted from the Mine during the second and third calendar quarters of 2009. To the extent that this amount may include fees due for coal removed from mines other than the Bear Canyon Mine, the obligation will be reduced by the Division upon verification of location and timing of other coal production by Hiawatha. The AML Fees were incurred after the date an order for relief was entered in the Debtor's bankruptcy case.

You have advised me that an arrangement must be made for payment of the outstanding AML Fees as a condition of the Division's approval of the Renewal Application. To that end, by this letter I provide the Division with assurance that the Trustee will promptly seek permission from the U. S. Bankruptcy Court for the District of Utah to pay the outstanding AML Fees as an administrative expense of the Debtor's bankruptcy estate. Upon receipt of the requisite Court approval and the expiration of any applicable appeal

Division of Oil, Gas and Mining

Attn: Daron Haddock

02 November 2010

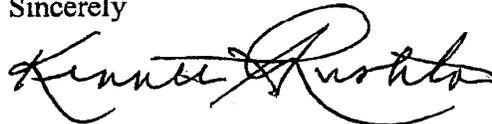
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periods (without appeal being taken), the outstanding AML Fees will be immediately paid.

You have further advised me that upon receipt of this assurance letter, the Division will be in a position to approve the Renewal Application.

A faxed or scanned and electronically transmitted facsimile of a signature-bearing page will be conclusive evidence of execution and delivery. If you have any questions, please feel free to contact me.

Sincerely

A handwritten signature in black ink, appearing to read "Kenneth Rushton". The signature is written in a cursive style with a large, looping initial "K".

Kenneth A. Rushton, Trustee

Print Page

Bear Canyon Permit Renewal

Bear Canyon Mining LLC
Highway 31
Huntington, Utah 84528

Kenneth A. Rushton, trustee for the bankruptcy estate of CW Mining Company doing business as Co-Op Mining Company, hereby submits an application for a permit renewal for the Bear Canyon Mine, permit number C/015/0025. The permit area encompasses approximately 10,920.45 acres for which the legal description is provided below.

Permit Area

- A. T16S, R7E SLBM Sec. 14 S1/2
Sec. 23 E1/2, E1/2 W1/2
Sec. 24 W1/2, W1/2 E1/2
Sec. 25 NW1/4 NW1/4, E1/2 NW1/4, SW1/4 SW1/4, E1/2 SW1/4
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
- T16S, R8E SLBM Sec. 7 NE1/4, NE1/4
Sec. 8 NW1/4, W1/4 E1/2, N1/2 SW 1/4, SE1/4 SW1/4
Sec. 16 All
Sec. 17 All
Sec. 21 E1/2 NW1/4, NE1/4, N1/2 SE1/4
- B. 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
Sec. 24 E1/2, E1/2,
Sec. 25 E1/2
- T16S, R8E SLBM Sec. 18 SW1/4, SW1/4
Sec. 19 S1/2 NW1/4, SW1/4, SW1/4 SE1/4, N1/2 SE1/4,
S1/2 NE1/4
Sec. 20 S1/2 NW1/4, N1/2 SW1/4
Sec. 30 W1/2, W1/2 NE1/4, Nw1/4 SE1/4
- C. T16S, R7E SLBM Sec. 25 SW1/4 NW1/4, NW1/4 SW1/4
T16S, R8E SLBM Sec. 6 Lots 11-14, E1/2 SW1/4, W1/2
SE1/4, SE1/4 SE1/4
Sec. 7 all except NE1/4 NE1/4
Sec. 8 SW1/4, SW1/4
Sec. 18 N1/2, SE1/4, N1/2 SW1/4, SE1/4 SW1/4
- D. T16S, R8E SLBM Sec. 31 NE1/4 NW1/4, NW1/4 NE1/4
- E. T6S, R8E SLBM Sec. 19 Lot 1, NE1/4 NW1/4, N1/2 NE1/4
Sec. 20 N1/2 NW1/4, NE1/4, NE1/4, NE1/4
21 W1/2 NW1/4, N1/2 SW1/2, SE1/4 SW1/4, S1/2 SE1/4

A surety bond is filed with the Division of Oil, Gas and Mining in the amount of \$1,825,000.00, and is payable to the State of Utah, Division of Oil, Gas and Mining (DOGM), and the Office of Surface Mining Reclamation and Enforcement (OSM).

A copy of the permit renewal application may be examined at the office of the Division of Oil, Gas and Mining, 1594 West North Temple, Suite 1210, Salt Lake City, Utah 84114-5801 and also at the Recorders Office located in the Emery County Courthouse in Castle Dale, Utah. Written comments, objections, or requests for an informal conference may be submitted to the Salt Lake City address. Said comments must be submitted thirty (30) days from the date of the last publication of this notice. This notice is being published to comply with the Surface Mining Control and Reclamation Act of 1977, and State and Federal regulations promulgated pursuant to said Act.

Published in the Emery County Progress on October 5, 12, 19 and 26, 2010.

These legal notices, along with those from other fine Utah newspapers, can be viewed at www.utahlegals.com.

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