

JUN 06 2011



U. S. DEPT. OF THE INTERIOR OFFICE OF SURFACE MINING Mine Site Evaluation State Program



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| <p>1. Person/Permittee RHINO CASTLE VALEY MINING</p> <p>2. Address P. O. BOX 1245</p> <p>3. City HUNTINGTON 4. State UT</p> <p>5. Zip Code 84528 6. Phone Number (435) 687 - 2450</p> <p>7. Operator Name (if different than Permittee) CASTLE VALLEY MINING, LLC</p> <p>8. Mine Name BEAR CANYON</p> | <p>9. Permit Number UT-015-025</p> <p>11. Field Visit Date 05/17/2011 <small>mm -dd - yyyy</small></p> <p>14. Permit Status A</p> <p>17. OSM Office # 140</p> <p>20. M.S.H.A. ID # 42-00697</p> <p>23. AVS Permittee Entity ID Number 089059</p> | <p>10. Permit Type PP</p> <p>12. Purpose OP</p> <p>15. Site Status AP</p> <p>18. CCID #</p> <p>21. State Code UT</p> |
| <p>13. SRA Present Y</p> <p>16. Facility Type BFG</p> <p>19. Land Code SF</p> <p>22. County Name EMERY</p> <p>24. State Office</p> | | |

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| <p>25. Hours</p> <p>2.00 a. Permit Review</p> <p>2.00 b. Site Visit Time</p> <p>15.00 c. Travel Time</p> <p>3.00 d. Report Writing</p> | <p>26. Signature Block</p> <p style="text-align: center;"><i>Elizabeth Shaeffer</i> Signature</p> <p style="text-align: center;">Elizabeth Shaeffer ID # 377 Printed Name</p> <p>Date: 06/02/2011</p> | <p>27. Reviewing Official:</p> <p style="text-align: center;"><i>Joyce Mullis</i> Signature</p> <p style="text-align: center;">6/2/11 Review Date: mm - dd - yyyy</p> <p>Is Supplemental MSE Page Used Y?N <input checked="" type="checkbox"/> Y</p> |
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Permit Type - Item 10 IP = Interim Program, PP = Permanent Program, NP = No Permit

Purpose Type Codes - Item 12

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|-------------------|-------------------------|--|
| Oxx... Oversight | RFx... Reclamation Fees | CCR... Citizen Compliant Referral (non site) |
| Axx... Assistance | Fxx... Federal Actions | CC... Citizen Complaint (initial site visit) |
| | | CCF... Citizen Complaint Follow-up |

Joint Inspection - Item 13 A joint inspection is when a state inspector accompanies an OSM inspector any time during the review of the mine site.

Permit Status - Item 14

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| A.... Active: Coal mining and reclamation activities occurring or permitted but not yet disturbed. | AB.... Abandoned: All surface and underground coal mining activities have ceased and operator has left the site without completing reclamation as defined in 30 CFR 840.11(g) |
| IN.... Inactive (Permanent Program Permit): Phase II completed or Temporary Cessation of Operations. (Interim Program Permit) Coal mining completed and reclamation activities initiated | AB1.. Bond Forfeiture: Bond forfeiture officially in process or completed, and reclamation in progress or not yet commenced. |
| BR.. Bond Release: Reclamation completed and State Regulatory Authority (RA) has released all of the bond (Phase III Release.) | AB2.. Partially Reclaimed Forfeiture: Forfeited site where all bonds have been used to reclaim site, but site not reclaimed to Program standards. |
| | AB3.. Reclaimed Forfeiture: Forfeited site that has been reclaimed to Program standards. |
| | NA.... Not Applicable: When site is unpermitted. |

Site Status Codes - Item 15

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| ND.. No Disturbance: No coal mining and reclamation operations have been started. | MC.. Mining Complete: No mining activity on site, site regraded and awaiting phase bond release. | NS.. Non-Site Visit: Status of site not determined. |
| EX.. Coal Exploration: Coal exploration operations have started and where coal mining operations have not begun. | TC.. Temporary Cessation: The RA has granted cessation of mining pursuant to 30 CFR 816/ 817.131(b). | FP.. Forfeiture Pending: The RA is pursuing actions to revoke the permit, collect the performance bond(s), and/or reclamation of forfeited site is in progress. |
| AP.. Active Coal Producing: Coal surface mining activities are occurring | P1... Phase I Release: At least Phase I bond release granted for entire permitted area. For interim permits, partial bond release. | FR.. Forfeited and Reclaimed: Forfeiture reclamation completed. |
| AN.. Active Non-Producing: Active non-producing facility such as tipple or preparation plant. | P2... Phase II Release: At least Phase II bond release for the entire permitted area. | FO.. Abandoned Site: Abandoned site that is permitted but there is no bond. |
| NM.. No Mining: The Permit Status is active, site is not in Temporary Cessation, no surface coal mining activity, and site not regraded. | P3... Phase III Release: Reclamation completed and the RA has released all bond. | WC.. Wildcat: Coal mining and reclamation operations have or are taking place and the activity is not covered by the required permits from the RA. |

Facility Type Codes - Item 16

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| A... Surface | D... Ancillary (Haulroad, Conveyor, and/or Rails) | H... Exploration Permits | L... Remaining site permitted under 30CFR785.25 |
| B... Underground | E... Refuse and/or Impoundment | I... Notice of Intent to Explore | |
| C... Preparation Plant | F... Loading Facility and/or Tipple | J... Exempt 16 and 2/3 | |
| | G... Stockpiles | K... Government Financed Construction Exemption | |

Small Business Regulatory Enforcement Fairness Act (SBREFA) Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you are a small business (a business with 500 or fewer employees including those of affiliates) and wish to comment on the enforcement or compliance activities of OSM, call 1-888-REG-FAIR (1-888-734-3247).

U. S. DEPT. OF THE INTERIOR OFFICE OF SURFACE MINING

Mine Site Evaluation

State Program

Permittee/ Person RHINO CASTLE VALEY MINING

Permit Number UT-015-025

Field Visit Date 05/17/2011

Continuation Page

28. Performance Standard Categories

Codes: 1=Compliance, 2=Noncompliance, 3=Not Planned, 4=Not Started, 5=Noncompliance Identified Elsewhere, 6=Previously Cited

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| <p>A. Administrative</p> <p>1. <u>1</u> Mining within Valid Permit</p> <p>2. <u>1</u> Mining within Bonded Area</p> <p>3. <u>1</u> Terms & Conditions of Permit</p> <p>4. ___ Liability Insurance</p> <p>5. ___ Ownership and Control</p> <p>6. ___ Temporary Cessation</p> <p>7. ___ AML Rec. Fees -- Non-Respondent</p> <p>8. ___ AML Rec. Fees -- Failure to Pay</p> <p>B. Hydrologic Balance</p> <p>1. ___ Drainage Control</p> <p>2. ___ Inspections & Certifications</p> <p>3. ___ Siltation Structures</p> <p>4. ___ Discharge Structures</p> <p>5. ___ Diversions</p> <p>6. ___ Effluent Limits</p> <p>7. ___ Ground Water Monitoring</p> <p>8. ___ Surface Water Monitoring</p> <p>9. ___ Drainage -- Acid-Toxic Materials</p> <p>10. ___ Impoundments</p> <p>11. ___ Stream Buffer Zones</p> <p>C. Topsoil & Subsoil</p> <p>1. ___ Removal</p> <p>2. ___ Substitute Materials</p> <p>3. ___ Storage and Protection</p> <p>4. ___ Redistribution</p> | <p>D. Backfilling & Grading</p> <p>1. ___ Exposed Openings</p> <p>2. ___ Contemporaneous Reclamation</p> <p>3. ___ Approximate Original Contour</p> <p>4. ___ Highwall Elimination</p> <p>5. ___ Steep Slopes (includes downslope)</p> <p>6. ___ Handling of Acid & Toxic Materials</p> <p>7. ___ Stabilization (rills and gullies)</p> <p>E. Excess Spoil Disposal</p> <p>1. ___ Placement</p> <p>2. ___ Drainage Control</p> <p>3. ___ Surface Stabilization</p> <p>4. ___ Inspections & Certifications</p> <p>F. Coal Mine Waste (Refuse Piles/Impoundments)</p> <p>1. ___ Drainage Control</p> <p>2. ___ Surface Stabilization</p> <p>3. ___ Placement</p> <p>4. ___ Inspections and Certifications</p> <p>5. ___ Impounding Structures</p> <p>G. Use Of Explosives</p> <p>1. ___ Blaster Certification</p> <p>2. ___ Distance Prohibitions</p> <p>3. ___ Blast Survey/Schedule</p> <p>4. ___ Warnings & Records</p> <p>5. ___ Control of Adverse Effects</p> | <p>H. Subsidence Control Plan</p> <p>I. Roads</p> <p>1. ___ Road Construction</p> <p>2. ___ Certification</p> <p>3. ___ Drainage</p> <p>4. ___ Surfacing and Maintenance</p> <p>5. ___ Reclamation</p> <p>J. Signs & Markers</p> <p>1. <u>1</u> Signs</p> <p>2. <u>1</u> Markers</p> <p>K. Distance Prohibitions</p> <p>L. Revegetation</p> <p>1. ___ Vegetative Cover</p> <p>2. ___ Timing</p> <p>M. Postmining Land Use</p> <p>N. Other</p> <p style="text-align: center;">General Category Performance</p> <p>___ ___ 1) _____</p> <p>___ ___ 2) _____</p> <p>___ ___ 3) _____</p> |
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Performance Standard Categories 30 CFR Counterparts

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| <p>A. Administrative (816/817.41-57)</p> <p>1. Valid Permit 773.11</p> <p>2. Mining within Bonded Area 773.11</p> <p>3. Terms & Conditions of Permit 773.17</p> <p>4. Liability Insurance 800.60</p> <p>5. Ownership and Control 778.13</p> <p>6. Temporary Cessation §42.11(e) & §16/817.131</p> <p>7. AML Rec. Fees -- Non-Respondent 870.15(b)</p> <p>8. AML Rec. Fees -- Failure to Pay 870.15(a)</p> <p>B. Hydrologic Balance (816/817.41-57)</p> <p>1. Drainage Control 45</p> <p>2. Inspections & Certifications 49(a)(10)</p> <p>3. Siltation Structures 46</p> <p>4. Discharge Structures 47</p> <p>5. Diversions 43</p> <p>6. Effluent Limits 42</p> <p>7. Ground Water Monitoring 41(c)</p> <p>8. Surface Water Monitoring 41(e)</p> <p>9. Drainage--Acid - Toxic Materials 41(f)</p> <p>10. Impoundments 49</p> <p>11. Stream Buffer Zones 57</p> <p>C. Topsoil & Subsoil (816/817.22)</p> <p>1. Removal 22(a)</p> <p>2. Substitute Materials 22(c)</p> <p>3. Storage and Protection 22(c)</p> <p>4. Redistribution 22(d)</p> <p>D. Backfilling & Grading (816/817.95-107)</p> <p>1. Exposed Openings §16/817.13, 14, 15, & §23.11 & 21</p> <p>2. Contemporaneous Reclamation 100</p> <p>3. Approximate Original Contour 102(a)(1)</p> <p>4. Highwall Elimination 102(a)(2)</p> <p>5. Steep Slopes (includes downslope) 107</p> <p>6. Handling of Acid & Toxic Materials 102(c)</p> <p>7. Stabilization (rills and gullies) 95(b)</p> | <p>E. Excess Spoil Disposal (816/817.71-74)</p> <p>1. Placement 71(e)</p> <p>2. Drainage Control 71(f)</p> <p>3. Surface Stabilization 71(g)</p> <p>4. Inspections & Certifications 71(h)</p> <p>F. Coal Mine Waste (Refuse Piles/Impoundments) (816/817.81-84)</p> <p>1. Drainage Control 83(a)</p> <p>2. Surface Stabilization 83(b)</p> <p>3. Placement 83(c)</p> <p>4. Inspections and Certifications 83(d)</p> <p>5. Impounding Structures 84</p> <p>G. Use of Explosives (816/817.61-68)</p> <p>1. Blaster Certification 61(c)</p> <p>2. Distance Prohibitions 61(d)</p> <p>3. Blast Survey/Schedule 62-64</p> <p>4. Warnings & Records 66 & 68</p> <p>5. Control of Adverse Effects 67</p> <p>H. Subsidence Control Plan (817.121-122)</p> <p>I. Roads (816/817.150-151)</p> <p>1. Road Construction 150(c)</p> <p>2. Certification 151(a)</p> <p>3. Drainage 150(b)-151(d)</p> <p>4. Surfacing and Maintenance 150(e)-151(d)</p> <p>5. Reclamation 150(f)</p> <p>J. Signs & Markers (816/817.11)</p> <p>1. Signs 11(a),(b), & (c)</p> <p>2. Markers 11(a),(b),(d),(e), & (f)</p> <p>K. Distance Prohibitions (761.11)</p> <p>L. Revegetation (816/817.111-116)</p> <p>1. Vegetative Cover 111 & 116</p> <p>2. Timing 113</p> <p>M. Postmining Land Use (816/817.133)</p> |
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Bear Canyon Partial Oversight Inspection
Utah Division of Oil, Gas, and Mining (DOGM) Permit ID # UT-015-025
Tuesday, May 17, 2011, 9:00 – 11:00 a.m.

Operator: Rhino Castle Valley Mining (Rhino)

Participants:

Jaron Jorgenson, Rhino
Corey Heaps, Rhino
Joe Helfrich, DOGM
Ingrid Campbell, DOGM
Karl Houskeeper, DOGM
Howard Strand, OSM
Elizabeth Shaeffer, OSM, Badge # 377

Weather conditions: upper 30's, snow and rain, wet

Background:

The purpose of this oversight inspection was to determine whether Utah is successful in preventing off-site impacts by ensuring that raptors are adequately protected from mining operations by requiring mine operators to use the *Raptor Survey Guidelines* protocol. The protocol was written by the Utah Division of Oil, Gas, and Mining (DOGM) in 2008 in coordination with the Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), and the Utah Division of Wildlife Resources (UDWR). The protocol enables mine operators to avoid active raptor nests during critical periods so that they prevent disturbance and comply with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The Utah Coal Program is required to prevent offsite impacts. Federal Rules at 30 CFR 817.97(c) and (d) and State Rules at R645-301-358 state that:

“No underground mining activity shall be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The operator shall promptly report to the regulatory authority any golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the regulatory authority shall consult with the U.S. Fish and Wildlife service and also, where appropriate, the State fish and wildlife agency and, after consultation, shall identify whether, and under what conditions, the operator may proceed.”

The Utah Coal Program, in coordination with the UDWR, the BLM, and the FWS, developed the *Raptor Survey Guidelines* document in order to aid mining operators in the inventory and protection of raptors near mining facilities. The use of this document as a best technology currently available to prevent offsite impacts is of particular interest for this topic evaluation. Annual raptor monitoring programs ensure that raptor nests are properly identified and protected during critical life periods specific to each raptor species including important mating, reproduction, and nesting periods. The Division, upon report of active raptor nests, will

coordinate with UDWR, the land owner, and the USFWS to develop an adequate protection plan to avoid disturbance and/or offsite impacts. Depending on the disturbance and raptor species, the protection plan can include seasonal or spatial avoidance of the nest or a mitigation plan. Spatial and seasonal buffers differ between species because some species are more sensitive to disturbance than others. As a best technology currently available to minimize disturbances, the raptor monitoring program is ideal because it aids mining operators and the Division to *avoid* disturbances to raptors. However, it is often difficult for an operator to avoid certain areas when conducting mining activities.

The *Raptor Survey Guidelines* document is used by the Coal Regulatory Program as the official document containing recommended protocols for raptor inventory and protection. The document was prepared using recommended survey procedures and protection methods described in the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* prepared by Laura A. Romin and James A. Muck (2002).

Inspection:

In 2007, C.W. Mining developed, and DOGM approved, a raptor mitigation plan for the Bear Canyon Mine. This plan of action is located in Chapter 3 of the approved permit (3-68). The plan addresses mitigation for potential impacts resulting from a change of mining sequence and/or disturbance or threats to nesting raptors as a result of subsidence from underground mining operations.

In 2008, Rhino Castle Valley Mining (Rhino) acquired the Bear Canyon from C.W. Mining, who employed long wall mining techniques. Conversely, Rhino conducts a room and pillar mining method. They began active mining in January of 2011 and are currently mining in Section 19 of the First North Mains Panel.

The current permit requires that raptor surveys are conducted. In 2010, Norwest Corp. of Emery County, UT, conducted a helicopter raptor survey for the mine. Norwest Corp. created a map that displayed their flight path, the survey area, and all inactive, tended, and active nests that were located in the designated survey area. The 2010 survey identified one active nest in Township and Range Section 13 (nest ID number 918) and two tended nests in Section 19 (nest ID numbers 902 and 904). In May of 2011, another helicopter survey was performed wherein a previously tended nest was identified as an active nest (nest ID number 904). As a result of this finding, the company must conduct an on-the-ground follow-up survey tentatively scheduled for July of 2011.

There appears to be a discrepancy between the permit on file at DOGM Offices in Salt Lake City and the version that Rhino maintains at their mine office. Specifically, the DOGM copy is a red line/strikeout version dated January 1, 2007, that requires raptor surveys be conducted every year. On the contrary, Rhino's version still requires that raptor survey be conducted every five years or when warranted due to new disturbance or proposed disturbance. Because of this discrepancy, DOGM and Rhino will need to jointly conduct a side-by-side comparison of the permit section regarding raptor survey frequency, and amend the permit based upon the new room and pillar mining operations. The annual raptor survey requirement was likely based on previous longwall mining operations that the previous owner employed. Since Rhino is utilizing

a room and pillar method for coal extraction which results in less subsidence, raptor nest monitoring frequency requirements may be reduced.

Due to inclement weather conditions (rain and fog) no tended or active nests were observed during the field evaluation.