

**From:** Priscilla Burton  
**To:** Danny R Brown; OGMCOAL  
**CC:** Haddock, Daron; Nance, Angela; Steab, Suzanne  
**Date:** 2/7/2012 12:17 PM  
**Subject:** 015025 Bear Canyon Mine, HCCI as operator  
**Attachments:** 0035.pdf; 6242008 date\_001.pdf

Hello Danny,

Yes, that is the period of record when Hiawatha Coal Company was operating the Bear Canyon Mine and attempting to acquire a permit transfer. The permit transfer was denied on April 2, 2009 in favor of the bankruptcy trustee, Kenneth A. Rushton. The two documents upon which I base these dates are attached.

Priscilla

Priscilla Burton, CPSSc  
Division Oil Gas & Mining  
319 Carbonville Rd., Ste. C  
Price UT 84501  
(435) 613-3733

>>> "Brown, Danny R" <[drbrown1@osmre.gov](mailto:drbrown1@osmre.gov)> Tuesday, February 07, 2012 11:56 AM >>>  
Priscilla,

To summarize:

I added Hiawatha Coal as an operator for the UT permit ACT/015/025 seq.3 for the period 6/24/2008 through 4/2/2009.

Will you please reply back to confirm for my records?

Thank you,

Danny R. Brown  
Program Analyst  
Office of Surface Mining  
Applicant/Violator System Office  
2679 Regency Rd  
Lexington, KY 40503  
859-260-3929



JON M. HUNTSMAN, JR.  
Governor

GARY R. HERBERT  
Lieutenant Governor

# State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

*Outgoing*  
C0150025  
# 3215  
OK

April 2, 2009

CERTIFIED RETURN RECEIPT REQUESTED

7004 2510 0004 1824 9689

Elliot Finley, Resident Agent  
Hiawatha Coal Company  
P.O. Box 1240  
Huntington, Utah 84528

Peter W. Guyon  
Attorney for Hiawatha  
10 Exchange Place #614  
Salt Lake City, UT 84111

Russel S. Walker  
Attorney for C. W. Mining  
265 East 100 South #300  
Salt Lake City, UT 84111

F. Mark Hansen  
Attorney for Standard Industries  
431 North 1300 West  
Salt Lake City, UT 84116

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Counsel for Cumberland  
Jones Waldo, Holbrook & McDonough  
170 South Main Street, #1500  
Salt Lake City, UT 84101

Kenneth A. Rushton, Trustee  
99 West Main Street, #202  
Lehi, UT 84043

Michael N. Zundel  
Chris Jones  
Prince, Yeates & Geldzahler  
175 East 400 South #900  
Salt Lake City, UT 84111

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.

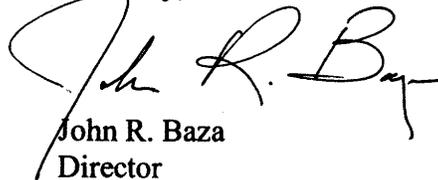
The Cessation Order allowed for abatement by Hiawatha in the event that it was able to provide the required surety, and if the Division approved transfer of the permit. The CO provided that such an approval of the transfer by the Division, if any, would be subject to all further orders of the bankruptcy 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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Elliot Finley, Resident Agent  
Hiawatha Coal Company  
P.O. Box 1240  
Huntington, UT 84528

PS Form 3800, June 2002

See Reverse for Instructions

**From:** Dana Dean  
**To:** Karl Houskeeper; Priscilla Burton  
**Date:** Tuesday, December 23, 2008 11:35 AM  
**Subject:** Re: Fwd: Bear Canyon

Thanks!

>>> Priscilla Burton 12/23/2008 11:34 AM >>>

Karl,

The date that HCCI began operating Bear Canyon is not stated in the application for permit transfer. During the first review of the transfer application, I asked Mark Reynolds this question and he could not provide an answer.

However, a document received with the application on November 19, 2008 indicates that COP Development Co. withdrew the sublease of coal from CW Mining and entered into a sublease of the coal with HCCI on August 19, 2008.

But HCCI first came and talked with Daron on June 24, 2008, during which time they filed the transfer application (which got lost). And, the Sun Advocate notice was published on July 1, 2008.  
Priscilla.

>>> Karl Houskeeper Tuesday, December 23, 2008 11:19 AM >>>