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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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February 25, 1994

TO: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist 

RE: Crandall Canyon Tract (LBA #9) Lease Addition, Genwal Coal Company, Crandall Canyon Mine, ACT/015/032, Folder #2, Emery County, Utah

SYNOPSIS OF PROPOSAL

On December 1, 1993, the Division received a proposal from Genwal Coal Company to add a new federal lease to their permit area. The lease has been called LBA #9, the Crandall Canyon Tract, or lease UTU-68082. The Division cannot consider the revision to be administratively complete until it receives right-of-entry information for this lease. Nevertheless, the technical adequacy of the plan has been reviewed, including some of the responses to the permit renewal review that were not reviewed before being inserted into the plan.

ANALYSIS

R645-301-112

Identification of Interests

The applicant and operator are Genwal Coal Company, and the resident agent is Larry Johnson. The Intermountain Power Agency (IPA) and Nevada Electric Investment Corporation (NEICO), as joint owners, will pay the abandoned mine reclamation fee. The revision shows the names of officers and directors of Genwal, IPA, and NEICO and the dates these officers and directors assumed their positions. Nevada Power Company owns all of NEICO's stock. The plan needs to include the names of persons that own or control Nevada Power, including the dates that they assumed their positions.

Because the Division will need to perform an Applicator-Violator System check for this revision, Genwal should update the list of officers and directors of controlling companies. The list of officers and directors of NEICO is not current.

The application says that IPA is currently engaged in the reclamation of the Horse Canyon Mine. Castle Valley Resources (CVR), a subsidiary of NEICO and IPA, holds permit ACT/007/012 for an area south of Wellington.



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R645-301-112.340 and R645-301-112.410 require that the plan contain the MSHA numbers with dates of issuance for affiliated mines. The Horse Canyon Mine MSHA number is not shown, and the dates of issuance are not shown for the Wellington Preparation Plant, the Horse Canyon Mine, and the Crandall Canyon Mine.

The plan needs to contain the employer identification numbers of any coal mining and reclamation operation owned or controlled by the applicant or by any person that owns or controls the applicant. The application contains Genwal's employer identification number, but it does not include the employer identification numbers for the Wellington Preparation Plant or the Horse Canyon Mine.

On page 1-6, the application says that CVR is a subsidiary of NEICO and IPA. This statement should be corrected. CVR is a subsidiary of NEICO but not of IPA.

On page 1-8, the application says that the applicant currently operates coal mining operations under approved mining permit number ACT/007/012 for the Wellington Prep. Plant. Genwal, the applicant, does not operate the Wellington Preparation Plant. The Wellington Plant is operated by CVR, a subsidiary of NEICO. The statement on page 1-8 needs to be corrected. The Wellington Plant still needs to be identified as an affiliated operation, however.

The plan shows holders of leasehold interests, including Genwal and the heirs of John Sanders. The coal is owned by the U. S. government and the State of Utah. The surface is owned by the United States, the State of Utah, and Mountain Coal Company.

R645-301-113

Violation Information

The plan says that neither the applicant nor any subsidiary, affiliate, or persons controlled by or under common control with the applicant has had a federal or state mining permit suspended or revoked in the last five years. They have not forfeited a mining bond or similar security deposited in lieu of bond, and there are no unabated cessation orders or air and water quality violation notices received prior to the date of the application. The application contains lists of violation notices received by Genwal for the Crandall Canyon Mine, IPA for the Horse Canyon Mine, and CVR for the Wellington Preparation Plant.

The information in this section of the application appears to be complete.

R645-301-114

Right-of-Entry

The application includes right-of-entry information for federal leases SL062648 and U-54762 and for State leases ML-21568 and ML-21569. It also contains copies of the Forest Service special use permits.

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The application does not include right-of-entry information for lease UTU-68082. The Division cannot approve the application until it receives this right-of-entry information.

Plate 1-1, Lease Boundary Map, has been revised. In the SW¼ of Section 5, T16S, R7E, the map says "GENWAL COAL CO. SURFACE AND COAL". I understand that Genwal has purchased this property from Arco/Mountain Coal/Beaver Creek Coal. In Appendix 1-5, the current plan contains a copy of the lease for this area. The revision does not contain a copy of the lease, but on page 1-13, the text of Chapter 1 still contains reference to the appendix. Rather than referencing the appendix, this portion of the plan should mention the closing documents for this property by type and date of execution, identify the specific lands to which the documents pertain, and explain the legal rights claimed by the Genwal.

Plate 1-1 and other maps show portions of Sections 27 and 34 in T15S, R6E and Section 3, T16S, R6E as within the new lease area. According to the documents received from the Forest Service, these areas were not included in the final version of the lease. Plate 1-1 and other maps that show portions of these sections in the lease area need to be corrected to show the correct lease boundaries.

R645-301-115
R645-301-117
R645-301-123

Unsuitability Claims
Insurance, Proof of Publication
Notarized Signature

The plan says that available information is that the proposed permit area is not within an area designated as unsuitable for underground mining activities. The environmental assessment (EA) conducted by the Forest Service applied unsuitability criteria and recommended approval.

The submittal includes a copy of an insurance certificate showing that insurance coverage would expire January 1, 1995. The insurance certificate in the plan does not contain adequate information to determine if it is acceptable, but the Division has an Acord certificate on file that appears to meet Division requirements.

A copy of the newspaper advertisement of the application for a renewal of Crandall Canyon Mine's permit will be filed with the Division and will be made part of the application as required under R645-300-121.100. I highly recommend that Genwal submit a copy of a proposed newspaper advertisement to the Division prior to actually placing the advertisement. This could avoid the complications of readvertising because of an incorrect legal description or other problems.

The submittal includes the notarized signature of Jay Marshall, Chief Engineer, with the statement that the information contained in the application is true and correct to the best

of his information and belief.

R645-301-321

Vegetation Information

Forest Service stipulation seven requires that the lessee establish a monitoring system to locate, measure, and quantify the progressive and final effects of underground mining activities on the topographic surface, underground and surface hydrology and vegetation. The monitoring system shall utilize techniques which will provide a continuing record of change over time and an analytical method for location and measurement of a number of points over the lease area.

The plan says on page 3-13 that any area that appears to have been impacted through subsidence will be inventoried to determine if any damage to vegetation or wildlife is apparent. In the event damage has occurred, the management agency responsible will be notified and a joint plan of mitigation will be formulated and forwarded to UDOGM for their approval prior to implementation.

This plan does not include a program to regularly monitor the vegetation. The mitigation plan should be acceptable, but the plan does not include a method of monitoring the surface of mined areas to decide if they have been affected. Long-term changes in vegetation composition would not be apparent with cursory or one-time observations.

The Forest Service has suggested that aerial color infrared photography taken every five years would be an acceptable method of monitoring vegetation changes. A program of on-the-ground monitoring or of color or black and white aerial photography may also be acceptable. Genwal might be able to coordinate aerial photography with other aerial surveillance, such as subsidence monitoring.

R645-301-322 Wildlife and Threatened or Endangered Species Information

R645-301-333

Wildlife Protection

No new wildlife information is presented for the new lease area. The Forest Service EA contains some information about threatened, endangered, and sensitive species.

There is a potential for tree-nesting raptors to occur in the area. The plan commits to a plan presented by DWR in a letter dated April 28, 1993. This letter says that if annual subsidence monitoring detects an area that is actively subsiding, the area should be surveyed for tree-nesting raptors. Measures should be implemented to protect any nest sites from destruction during the nesting season.

The plan says that surveys for cliff-nesting raptors conducted by DWR have located one site where golden eagles have either historically built aeries or where there is a potential

for aeries. It also says that aerial surveys of the eagle nest will be conducted every three years or on request of the Fish and Wildlife Service or DWR. However, the plan does not contain new information about the potential for cliff-nesting raptors in the new lease area.

The geology map shows outcrops of cliff-forming formations in the new lease area. It does not appear that past raptor surveys checked for cliff-nesting raptors in this area. Appendix 13-3 from the old plan contains a letter from DWR that needs to be included in this plan. It says that certain areas, particularly the State leases, were surveyed for cliff-nesting raptors and that the habitat is of poor quality for these species. The new lease areas were not surveyed.

August 26, 1993, correspondence from the Fish and Wildlife Service to the Forest Service says that the lease needs to incorporate stipulations which preclude the subsidence of cliffs which provide nesting habitat for the golden eagle, prairie falcon, and other migratory birds of high federal interest within the vicinity of the proposed lease tract. Forest Service stipulation number nine says, "Except at specifically approved locations, underground mining operations shall be conducted in such a manner so as to prevent surface subsidence that would: (1) cause the creation of hazardous conditions such as potential escarpment failure and landslides".

A letter dated August 6, 1993, from the Forest Service to the Fish and Wildlife Service says that the Forest Service applied certain unsuitability criteria to the site. Specifically, the letter says:

Criterion No. 11 There are no bald or golden eagle nest sites with the lease tract but golden eagle nests have been identified within a 1/2 mile buffer zone of the tract boundaries. However, exception (2)(i) applies. The underground mining of coal would not adversely affect the golden eagles or their nests.

This section of the letter appears to contradict information contained in September 2, 1993, DWR correspondence concerning the lease. The correspondence says that there is a golden eagle nest in T15S R7E, Section 31 which is contained within the lease. I have discussed this apparent contradiction with Steve Romero of the Forest Service. He acknowledged the discrepancy and said that he was familiar with the DWR comments about the nest. He said that no new survey work for cliff-nesting raptors was done for the EA but that he plans to do some work this spring. Depending on the results of the Forest Service's work, Genwal may not need to conduct further surveys. However, Genwal will need to include the Forest Service results in the plan.

The mining and reclamation plan also discusses the golden eagle nest referred to above. It says that the second nest (187.723) shown on Plate 3-1 is outside the proposed mine area. This nest is outside the proposed lease area according to this map, but the DWR

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correspondence referred to above includes a map showing a golden eagle nest within the lease boundary. The nest shown on Plate 3-1 and the nest discussed in the DWR letter are probably the same. Genwal needs to update Plate 3-1 to show the golden eagle nest in Section 31, T15S R7E.

Genwal's plan needs to address the stipulation that mining be conducted in a manner that prevents surface subsidence that would cause potential escarpment failure. If cliffs are present in the new lease area, they need to be checked for cliff-nesting raptor nests. If nests are present, a protection plan needs to be developed. The protection plan would need to include provisions to monitor the nests for activity during periods before the areas subside. If any nests are active, a mitigation plan must be implemented to protect the nests. Even if the nests are not active, Genwal would need to obtain a permit from the Fish and Wildlife Service before damaging or destroying a nest.

Other effects on wildlife are expected to be minimal. DWR's primary concern is the potential loss of water sources, and Genwal's plan addresses this concern. If it is proven that the flow of any seep or spring has been reduced by 50% or more, Genwal will notify the Forest Service and the Divisions of Wildlife Resources (DWR) and Oil, Gas and Mining and begin working on an acceptable mitigation plan involving the use of guzzlers.

The EA contains a biological assessment/evaluation that discusses several endangered and sensitive species that could occur in the area. It found that there will be no effect on most of the species from leasing and mining the coal, but goshawks could be affected through loss of water sources. The assessment/evaluation indicates that field survey work was actually performed for the species in the list. The negative findings constitute information important to the Division. Genwal needs to include or reference these findings within the plan.

RECOMMENDATIONS

Prior to approval, Genwal should update the lists of officers and directors of controlling companies. Certain identification information for affiliated mines needs to be provided. Reference to Appendix 1-5 should be eliminated, but the plan needs to contain right-of-entry information for the former Arco lease area. Also, several of the maps need to be updated to show the correct proposed lease area.

The plan needs to discuss how cliff-nesting raptor nests will be identified and protected. The Forest Service is expected to do some survey work in 1994, and Genwal might be able to incorporate results of this work into the plan. Negative findings on threatened, endangered, and sensitive species from the Forest Service Environmental Assessment need to be included in the plan.