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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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TO: File
THROUGH: Daron Haddock, Permit Supervisor
FROM: Paul Baker, Reclamation Biologist
DATE: April 27, 1993
RE: Second Round Response to Permit Renewal Technical Deficiency Review, Southern Utah Fuel Company, Convulsion Canyon Mine, Folder #2, ACT/041/002

*NRH
PBB*

SUMMARY

On March 24, 1993, the Division received a second response to deficiencies found in SUFCO's plan in the permit renewal review. A few deficiencies still remain after this second response, and, in addition to information needed from SUFCO, a variance from approximate original contour also requires certain Division actions.

ANALYSIS

R645-301-341

Revegetation

Deficiency:

1. *The plan must adequately address the revegetation requirements for final reclamation at the breakout areas.*

Response and Analysis:

The plan states that the breakout areas will be reclaimed using the standard seed mix. Seeding will be done by broadcasting. Mulch and fertilization will be applied at the rates listed under mulching techniques.

The reason for including this deficiency was that it was felt that the revegetation procedures to be used at the main portal area might not be practical at the breakouts. Although hydroseeding and hydromulching are acceptable planting and mulching methods, SUFCO should consider whether it is practical to transport equipment needed to perform these operations to the areas where the breakouts are located.



Unrelated to this deficiency but included in this regulation, SUFCO was given approval to use hydroseeding at the waste rock disposal site last fall with the understanding that the mulching method would be included in the plan. This has not been done in this submittal. It was assumed that a wood fiber mulch would be used, and this was the case.

Remaining Deficiency:

1. The revegetation plan for the waste rock disposal area needs to state what type of mulch will be used.

R645-301-341.250 Success Determination Measures

Deficiency:

1. *Woody species density standards that were established in consultation with the Division of Wildlife Resources and approved by them need to be incorporated into the plan. These standards are 1000 woody plants per acre at the mine site and 5000 woody plants per acre at the waste rock site.*

Response and Analysis:

The plan has been changed to state that 1000 tree and shrub seedlings will be planted in the mine portal and sedimentation pond area. Page 4-6 of the waste rock revegetation plan states that woody plant species density will be 5000 plants per acre.

Some of the revegetation standards for success are clearly defined in the rules; however, some are not defined and must be developed through discussions with the Operator and consultation with other agencies. Standards that are not stated in the rules need to be included in the plan as approved standards for success. The tree and shrub density standard for success is established by the Division in consultation with State forestry and wildlife management agencies and needs to be stated in the plan. This standard has been included for the waste rock disposal area, but the plan needs to include a *standard for success*, not just a revegetation plan, for woody species density in the mine portals area.

The changes that have been made to the revegetation plan for the portals area are good and should increase the chances for revegetation success. The reviewer commends SUFCO for going beyond regulation requirements in the reclamation plan.

Remaining Deficiency:

1. The plan needs to include the woody species density standard for success for the mine portal area of 1000 woody plants per acre that was established in consultation with and approved by the Division of Wildlife Resources.

R645-301-412

Reclamation Plan

Deficiencies:

1. *The plan must contain a copy of comments concerning the proposed postmining land use from the legal and equitable owners of record of the surface of the permit area. This condition has been satisfied for the Forest Service and UNELCO but not for the land owned by Roger and Ruth Nielsen.*
2. *The plan needs to contain right of entry information in compliance with R645-301-114.200 for the lands owned by Roger and Ruth Nielsen where the private mineral estate and private surface estate have been severed.*

Response and Analysis:

Correspondence included with the latest response states that a copy of comments concerning the proposed postmining land use for the land owned by Roger and Ruth Nielsen does not need to be included because the postmining land use is not different from the premining land use. It also states that the right of entry information is not required because Utah Code Annotated (UCA) 40-10-1 does not require this right of entry information except for surface mining operations.

As SUFCO stated in their response letter, the postmining land use for the land owned by the Nielsen's is not to be changed, and there should be no surface disturbance except for possible subsidence. This information would normally have been in the initial permit application, so it will not be required now.

Although R645-301-114.200 does not specify that this regulation only applies to surface mining operations (it says "certain coal mining and reclamation operations"), UCA 40-10-1 and the federal regulations do. Therefore, this deficiency was inappropriate.

Remaining Deficiencies:

None.

Deficiency:

3. *The plan must adequately address appropriate sections of R645-302-270 for the variance from approximate original contour requirements.*

Response and Analysis:

The response letter states that the Forest Service approved leaving the highwalls as part of the original MRP plan approval. The highwalls to be retained are of such limited extent compared to the natural cliffs in the drainage that watershed characteristics will not be affected.

The original TEA documents that the postmining land uses were approved by the Forest Service; however, the regulations require that the plan contain a specific request from the landowner that the area not be restored to approximate original contour (AOC). The statement that hydrologic characteristics will not be changed compared to other cliffs in the canyon is probably valid, but this justification needs to be included in the plan. R645-302-271.700 requires that the watershed be improved compared with the condition of the watershed before mining or with its condition if the AOC were to be restored.

In addition to the requirements that SUFCO needs to meet for AOC variance, the Division needs to mark the permit as containing a variance and to make the requirements of R645-302-270 a specific condition of the permit. Until both SUFCO and the Division have satisfied these requirements, the AOC variance cannot be considered to be approved.

Remaining Deficiencies:

1. The plan must adequately address appropriate sections of R645-302-270 for the variance from approximate original contour requirements. Additionally, the Division needs to include the requirements of R645-302-270 as a specific condition of the permit and to comply with other parts of R645-302-272 through 275.

RECOMMENDATIONS

SUFCO needs to address some of the requirements of R645-302-270 and the Division needs to include the requirements of R645-302-270 as a specific condition of the permit and to comply with other parts of R645-302-272 through 275 in order for the variance from AOC to be granted. The plan needs to include a woody species density standard for success for the mine portals area, and the type of mulch to be used at the waste rock site needs to be specified.