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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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November 29, 1996

TO: File

THROUGH: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist 

Re: Permit Transfer Application, Coastal States Energy Company, Convulsion Canyon Mine, ACT/041/002, Folder #2, Sevier County, Utah

SUMMARY

On November 13, 1996, the Division received a proposal to transfer the permit for the Convulsion Canyon Mine from Coastal States Energy Company to Canyon Fuel Company, LLC. Canyon Fuel Company is a company formed by the merger of Coastal States Energy Company and all of its subsidiaries through a purchase and sale agreement entered into by The Coastal Corporation, Coastal Coal Company, Atlantic Richfield Company, and Itochu Corporation. Canyon Fuel Company was subsequently sold to Arco Uinta Coal Company, a fully-owned subsidiary of the Atlantic Richfield Company, and Itochu Coal International, Inc., a fully-owned subsidiary of Itochu Corporation.

There are some problems with the application that need to be corrected before final approval.

ADMINISTRATIVE FINDINGS

IDENTIFICATION OF INTERESTS, VIOLATION INFORMATION, AND RIGHT OF ENTRY INFORMATION

Identification of Interests

Analysis:

The applicant and operator are Canyon Fuel Company, LLC. The application lists the applicant's address and telephone number and says the employer identification number is to be applied for. The employer identification number will need to be included in the



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application when it becomes available. According to the Utah Department of Commerce, the company has reserved its name but has not yet qualified to do business in Utah. This needs to be done before the permit is transferred.

The resident agent is CT Corporation Systems, and the contact person is David Arnolds. Canyon Fuel Company will pay the abandoned mine reclamation fee.

The application lists the employer identification numbers and the officers and directors of Canyon Fuel Company, Arco Uinta Coal Company, and Atlantic Richfield Company. It also shows the officers' and directors' social security numbers, their positions, and the dates the positions were assumed. The application also lists the directors and officers of the Itochu Corporation and Itochu Coal International, Inc., the positions these people hold, and the dates these positions were assumed. It does not list social security numbers for the directors and officers of the Itochu Corporation and Itochu Coal International, Inc., because they are Japanese nationals.

There are several apparent typographical errors in the lists of officers and directors of the Itochu Corporation and Itochu Coal Internationals and in the Japanese address for the Itochu Corporation. These should be corrected so they can be properly entered in the Applicant Violator System.

The application lists other coal mining and reclamation operations owned or controlled by Atlantic Richfield Company or its subsidiaries together with these mines' MSHA numbers and permit numbers. The Itochu Corporation does not own or control any interest, direct or indirect, in any other entity having coal mining operations in the United States, and none of its officers or directors are directors or officers of any other entity that owns or controls an interest in an entity having coal mining operations in the United States.

The application lists the owners of surface and mineral property within and contiguous to the permit area. In addition, Volume 3 of the current mining and reclamation plan shows land ownership information for the area of the waste rock disposal facility. Some of the land is shown as being owned by Coastal States Energy Company, but, according to the application, Coastal States Energy Company will cease to exist when the agreement is finalized. Therefore, the land ownership information needs to be updated.

Findings:

Information provided in the proposal is not considered adequate to meet the requirements of this section. Prior to final approval, the applicant must provide the following in accordance with:

R645-301-112.300 There are several apparent typographical errors in the lists of officers and directors of the Itochu Corporation and Itochu Coal Corporation. The Japanese address of the Itochu Corporation also has typographical errors. These need to be corrected.

R645-301-112.500 According to the application, Coastal States Energy Company will cease to exist when the acquisition agreement is finalized. In the current mining and reclamation plan, Coastal States Energy Company is shown as owning land within the permit area. This needs to be updated.

Violation Information

Analysis:

Neither Canyon Fuel Company nor any major stockholder of the company has had a state or federal mining permit suspended or revoked or a security deposited in lieu of bond revoked. Neither Canyon Fuel Company, any of its mining operations, nor any person who owns or controls Canyon Fuel Company has any unabated cessation orders or unabated air or water quality violation notices.

Because Canyon Fuel Company is a new entity, its operations have never received any notices of violation. However, the application lists violation notices received by Coastal States Energy Company's operations for at least the past four years.

Findings:

The application is considered adequate with regard to this section of the regulations.

Right of Entry

Analysis:

The application shows right of entry information for the federal leases and includes copies of the leases. As discussed above, there are fee lands, both surface and coal, within the permit area which Coastal States Energy Company owns. The application needs to show who will own these lands when the acquisition agreement is finalized and show how Canyon Fuel Company acquired right of entry.

In addition, neither the application nor the current mining and reclamation plan

discusses the Forest Service Special Use Permit shown on Plate 5-6. The application needs to contain a description of the documents upon which the applicant bases their legal right to enter and begin coal mining and reclamation operations in this area.

Findings:

Information provided in the proposal is not considered adequate to meet the requirements of this section. Prior to final approval, the applicant must provide the following in accordance with:

R645-301-114 Coastal States Energy Company is currently the owner of surface and mineral properties within the permit area. Since Coastal States Energy Company will no longer exist, the application needs to show who will own these lands and how Canyon Fuel Company acquired right of entry,

R645-301-114 The application needs to contain a description of the documents upon which the applicant bases its right to enter and begin mining and reclamation operations in the Forest Service Special Use Permit Area

UNSUITABILITY CLAIMS

Analysis:

The application says to the best of Canyon Fuel Company's knowledge, no portion of the permit area is designated or is under study for designation as unsuitable for mining. No operations will be conducted within 300 feet of an occupied dwelling, but they have been and will be conducted within 100 feet of public roads.

It does not appear that the plan contains approvals from road authorities to conduct mining and reclamation operations within 100 feet of public roads. However, this is an issue that should have been addressed previously, and the Division cannot now require the information.

Findings:

The application is considered adequate with regard to this section of the regulations.

**PERMIT TERM, INSURANCE, PROOF OF PUBLICATION, FILING FEE,
NOTARIZED SIGNATURE**

Permit Term

Analysis:

The application says the permit application covers the next five years of mining, but information is presented showing the approximate life of the mining operation. The permit will expire in May 1997.

Findings:

The application is considered adequate with regard to this section of the regulations.

Insurance

The application says certificates of insurance issued to Canyon Fuel Company will be added prior to closing and prior to approval of the permit transfer. The applicant needs to supply a certificate of insurance before the permit can be transferred.

Findings:

Information provided in the proposal is not considered adequate to meet the requirements of this section. Prior to final approval, the applicant must provide the following in accordance with:

R645-301-117.100 The application needs to contain either a certificate of liability insurance or evidence of self-insurance in compliance with R645-301-800.

Proof of Publication

Analysis:

Appendix 1-3 of the application contains a proposed newspaper advertisement of the permit transfer. The application says it was published in the *Richfield Reaper* on November 13, 1996. The Division needs to receive a proof of publication.

It does not appear that the advertisement included the Forest Service Special Use Permit Area where the main surface facilities are located. However, R645-303-322 only

requires a description of the geographic location of the mine and not a complete legal description. Therefore, the Division can consider the proposed advertisement adequate.

Findings:

Information provided in the proposal is not considered adequate to meet the requirements of this section. Prior to final approval, the applicant must provide the following in accordance with:

R645-301-117.200 The application needs to contain a copy of the newspaper advertisement or a proof of publication for the advertisement of the application for a permit transfer. This needs to be made part of the application not later than 4 weeks after the last date of publication.

The proposed advertisement in the application does not contain a legal description of the Forest Service Special Use Permit Area where the main facilities are located, but the advertisement is only required to contain a description of the geographic area.

Notarized Signature

Analysis:

The application includes the notarized signature of an official of Canyon Fuel Company stating that the information in the application is true and correct to the best of information and belief.

The primary purposes of having the notarized signature and statement are to ensure that an application for permit change is legitimate and that the applicant actually agrees to the commitments and obligations in the application. In the case of a permit transfer, the Division requires the notarized signatures of officials of both parties involved in the transfer. The application needs to contain a statement with the notarized signature of a responsible official of Coastal States Energy Company indicating their agreement with the proposal to transfer the permit.

Findings:

Information provided in the proposal is not considered adequate to meet the requirements of this section. Prior to final approval, the applicant must provide the following in accordance with:

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R645-301-123

The application needs to contain a statement with the notarized signature of a responsible official of Coastal States Energy Company indicating their agreement with the proposal to transfer the permit.

RECOMMENDATIONS

The application should not be approved until the problems noted in this review have been corrected.