

Document Information Form

Mine Number: C1041/002

File Name: Incoming

To: DOGM

From:

Person N/A

Company BUREAU OF LAND MANAGEMENT

Date Sent: N/A

Explanation:

RIGHT OF WAY

cc:

File in:
C1 041 , 002 Incoming

- Refer to:
- Confidential
 - Shelf
 - Expandable

Date _____ For additional information

ACT/041/002 # 2
Copy Baron

FORM 2800-14
(August 1985)

Issuing Office
Utah State Office
Price Field Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY
SERIAL NUMBER UTU- 77971

1. A right-of-way is hereby granted Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Canyon Fuel Company LLC.
6995 South Union Park Center, Suite 550
Midvale, Utah 84047

receives a right to construct, operate, maintain and terminate a coal access entry right-of-way on public lands described as follows:

Salt Lake Meridian, Utah
T. 21 S., R. 5 E.,
Sec. 15, W1/2SW1/4SE1/4,
Sec. 22, W1/2NW1/4NE1/4, W1/2SW1/4NE1/4, W1/2NW1/4SE1/4,
S1/2SE1/4.

b. The right-of-way granted herein contains 160.0 acres, more or less.

c. This instrument shall terminate one year (1) year from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

File in:

- Confidential
- Shelf
- Expandable

Refer to Record No 0060 Date _____

In C/ 041, 002, Incoming

For additional information _____

- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration or prior termination of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer, unless specifically exempted from such payment by regulation. Provided, however, the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations, part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d), or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit A and Exhibit B, dated August 12, 1999, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.

- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- g. Ninety (90) days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way area. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

Richard L. P. L.
(Signature of Holder)

Mark E. Bailey
(Signature of Authorized Officer)

PRESIDENT & CEO
(Title)

Active
Field Manager
(Title)

AUGUST 20, 1999
(Date)

20 Aug 99
(Effective Date of Grant)

AUG 12 1999

2890
UTU-77971
(UT-070)EXHIBIT A
STIPULATIONS

1. The holder shall operate, and maintain the facilities, improvements, and structures within this right-of-way in strict conformity with its mine permit plan (Utah Division of Oil Gas and Mining No. ACT/041/002). Any relocation, additional construction, or use that is not in accord with the approved permit shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all stipulations and approved mine plan shall be made available to the authorized officer during construction, operation, and termination of the right-of-way. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health and safety or the environment.
2. The holder shall contact the authorized officer at least seven (7) days prior to the anticipated start of underground development activities. The authorized officer may require and schedule a premining conference with the holder prior to the holder's commencing mining activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with mining activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant including the mine plan.
3. The holder shall designate a representative(s) who shall have the authority to act upon and to implement instructions from the authorized officer. The holder's representative shall be available for communication with the authorized officer within a reasonable time when underground development occurs.
4. The holder shall not initiate any mining activities on the right-of-way without the prior written authorization of the authorized officer. Such authorization shall be a written **notice to proceed** issued by the authorized officer. Any notice to proceed shall authorize mining or use only as therein expressly stated and only for the particular location or use therein described.
5. The authorized officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his judgement, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.

6. Any paleontological resource discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
7. The holder shall develop underground entries in accordance with information provided in the right-of-way application. The underground access-way shall be limited to full-support first mining associated with development of mains and cross-cuts. Pillar design will be approved by BLM before mining is initiated. Any modification to the proposed design must be approved by the authorized officer.
8. This instrument shall terminate upon issuance of a Federal coal lease (UTU-76195) to the holder and approval of the Federal mine permit.
9. The holder shall provide maps to the authorized officer showing development progress of the right-of-way entries. Maps shall be provided on a monthly basis for the purpose of estimating production by volumetric calculation. Scale weight for total mine production shall also be provided on a monthly basis.
10. The holder shall pay fair market value for the Federal coal removed from the right-of-way as provided in 43 CFR 3431.2 (a). The basis for the price of the coal is the estimated F.O.B. selling price of the coal removed less direct mining costs for removal of the coal. It has been estimated that 286,000 tons of coal will be removed from the right-of-way. Fair market value is determined to be \$1.50 per ton of coal or not less than 8 percent of the selling price of the coal plus \$0.25 per ton. It is estimated that the total payment will be \$429,000.
11. The holder shall remit a check in the amount of \$107,250, determined to be 25 percent of the estimated total payment, prior to commencement of mining. Payment shall be made to the Price Field Office, 125 South, 600 West, Price, Utah 84501. The holder will be billed for the remainder of the payment upon completion of mining activities within the right-of-way area. If the Federal coal lease for this area is in effect prior to mining of the coal, royalty payments shall be made to the Minerals Management Service as outlined in the lease.

12. A bond in the amount of \$321,750. shall be provided with this initial payment as security for the remainder of the total estimated payment. This can be accomplished by providing a surety bond in the amount, submitting a cash bond, or providing a personal right-of-way bond secured by negotiable U.S. Bonds of a par value equal to the amount required.
13. The holder shall be subject to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*) in the removal of all coal within the right-of-way as required in 43 CFR 3431.2 (c).
14. The holder shall conduct all activities associated with the operation and termination of the right-of-way within the authorized limits of the right-of-way.
15. Upon completion of the R/W entries, a final determination as to the total coal removed in connection with the R/W shall be made by BLM. An invoice representing payment for the total coal removed less the initial payment shall be sent to the R/W holder. Final payment shall be due within 30 days of receipt of the billing statement. Upon receipt of the final payment, the bond shall be released.