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

Michael O. Leavitt
Governor
Kathleen Clarke
Executive Director
Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
801-538-5340
801-359-3940 (Fax)
801-538-7223 (TDD)

February 8, 2001

Dennis Winterringer
Office of Surface Mining
1999 Broadway Suite 3320
Denver, Colorado 80202-5733

C/0413/008
C/0413/001
EXP/019/004
C/0051/0051

Re: Inspection Frequency at Bond Forfeiture Sites (Boyer Mine, Sunnyside Mine, Blackjack No. 1 Mine, Summit #1 Mine), OSM Correspondence, Outgoing file

Dear Mr. Winterringer:

The Division has reviewed the requirements for inspections at bond forfeiture sites and has made specific findings regarding inspection frequency for the four mines that were reviewed as part of the "Potential Off-Site Impacts from Bond Forfeiture Sites" evaluation topic. A copy of the written findings is enclosed for each of the four mines that were evaluated. They are:

1. Summit Coal Company's Boyer Mine.
2. Sunnyside Coal Company's Sunnyside Mine.
3. Summit Mineral's Summit #1 Mine.
4. New Tech Mining Corp's Blackjack No. 1 Mine.

It has been determined that each of these sites meets the criteria as outlined in the definition of "Abandoned Site" and for the purposes of R645-400 only require inspection as necessary to monitor for changes in environmental conditions or operational status at the site.

Please call if you have any questions.

Sincerely,

Daron R. Haddock
Permit Supervisor

sm
Enclosures:
cc: Price Field Office
O:\OVERSITE\inspfreqltr.wpd



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January 24, 2001

TO: Internal File

THRU: Daron R. Haddock, Permit Supervisor 

FROM: Joseph C. Helfrich, Sr. Reclamation Specialist 

RE: Inspection Frequency, Summit Mineral, Inc., Summit # 1, C/043/001

SUMMARY:

The Summit #1 mine was inspected monthly through September of 1995. On October 27, 1995 a memo to Lowell Braxton, (Associate Director, Mining), from Pamela Grubaugh-Littig, (Permit Supervisor) provided the findings and documentation for reduced inspection frequency at the Summit #1 mine. A copy of that memo and supporting chronology is provided. Inspections continued on a monthly basis through September of 1995.

TECHNICAL ANALYSIS:

For the purpose of R645-400 the Division has found that:

- a) The Summit #1 mine was not permitted under the Title V coal program. The collateral bond was forfeited on September 25, 1995. The site was abandoned leaving the disturbed area unreclaimed. Inspections continued in accordance with the requirements of R645-400 through September of 1995. The disturbed area was reclaimed under the guise of the Title IV Abandoned Mine Program. Reclamation commenced in 1997 and was completed in 1998.

FINDINGS:

In accordance with R645-100-200, (definitions) the Division has found that the Summit#1 Mine has met the criteria for the definition of "Abandoned Site" for the purpose of R645-400. The Division had inspected the site as necessary to monitor for changes in environmental conditions or operational status at the site.

RECOMMENDATION:

In accordance with R645-100-200 Abandoned Site definition (f)(ii), for the Summit #1 Mine, additional inspections as needed may be warranted in the event of a natural disaster or unusual site conditions.

sm

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

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3 Triad Center, Suite 350
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801-359-3940 (Fax)
801-538-5319 (TDD)

October 27, 1995

TO: Lowell P. Braxton, Associate Director, Mining

FROM: Pamela Grubaugh-Littig, Permit Supervisor *pgl*

RE: Status of Summit #1 Mine (Blackhawk Mine), ACT/043/001
(AMR/043/910), Folder #3, Summit County, Utah

Background Information

The Summit #1 Mine has been determined to be a "bond forfeiture" site, i.e. the permittee failed to reclaim and the bond was forfeited September 25, 1990, see attached chronology. The Division holds the trustee's deed for this property, located in Wallsburg in Summit County, Utah (which was posted as a collateral bond).

A summary of important dates at this mine site are as follows:

On March 1, 1985, Cessation Order C85-1-1-1, was issued by the Division for allegedly conducting underground coal mining activities without Division approval. The worksheet for the assessment stated that "damage resulted from a wildcat operation and the extent of damage include development of a road and two pads and the blockage of two existing portals and a bridge. Damage continued since the early part of 1985 - Title V" (see attached). This CO was terminated on September 16, 1985 pursuant to filing an exploration plan by the applicant.

On November 4, 1985, Cessation Order C85-6-2-1 was issued for allegedly conducting underground coal mining activities without Division approval. This CO was terminated on November 4, 1985 when alleged activities were apparently discontinued.

On December 6, 1985, the Board ordered the applicant to pay penalties for failure to comply with the September 17, 1985 Board Order, assume reclamation liability, post a reclamation bond, seal any open mine portals and enter the property only for security and data acquisition for permitting.



Item #6 of the December 6, 1985 Board Order specifically stated that "Summit Minerals shall post a reclamation bond within ten days from December 6, 1985, such bond to be in the amount of \$50,000. Such parties shall post an additional bond in the additional amount of \$70,300 within 30 days of December 6, 1985, in order that within 30 days the total amount of the bond will be \$120,300" (attached).

On June 4, 1986, Summit Mineral Company provided the Division with collateral in the form of real estate appraised at the time at \$120,300.

On February 20, 1987, Summit Mineral submitted a reclamation plan. After reviewing the reclamation plan, the Division issued a decision indicating a mining and reclamation permit could be issued when Summit Minerals posted a reclamation bond totalling \$229,000. No permit was issued by the Division, however.

In 1989, the Division began legal proceedings to forfeit the collateral bond, and on September 25, 1990, the bond forfeiture was completed.

Abandoned Site Qualification

Summit #1 Mine meets the definition of an abandoned site pursuant to R645-100-200. According to the "abandoned site" definition in the Utah Coal Title V Program, sections (a), (b), (c), and (d) for the Summit #1 Mine have been met, see attached definition. Sections (e) and (f) of the definition, are currently being considered for the Summit #1 Mine:

Section (e): In lieu of the inspection frequency established in R645-400-130, the Division will inspect each abandoned site as necessary to monitor for changes of environmental conditions or operational status at the site. This site is currently inspected monthly by Title V.

Section (f): Before ceasing to perform inspections at the frequency required by R645-400-130 at an abandoned site, the Division will:

- (i) Evaluate the environmental conditions and operational status of the site;
- and (ii) Document in writing the inspection frequency necessary to comply with paragraph (e) of this definition and the reason for selecting that frequency.

Removal from Inspectable Units in Title V

This site has been an inspectable unit in Title V program based on a requirement by the OSM-Albuquerque Field Office and inspected on a monthly basis for over ten years. An evaluation of the environmental conditions of the site has been documented by these inspection reports and this documentation allows for cessation of inspections, see Section (f) of the definition of an abandoned site.

Current Division Activity

On June 26, 1995, the Attorney General provided documentation to OSM-AFO for legal eligibility for the Summit #1 Mine for AML funding, see attached.

Wayne Western, Title V Engineer, is currently preparing a preliminary bid package for the Summit #1 Mine in completion of a University of Utah class assignment which should be finished in October 1995.

Additionally, the Wallsburg property received a right-of-way from an adjacent landowner which makes the property more valuable, i.e. the bond forfeiture money may be more than previously anticipated. Title IV is actively pursuing the sale of this property.

Reclamation

When the Wallsburg property is sold, funds from this bond forfeiture should be credited to the AML Fund and an appropriate accounting record should be created to balance AML expenditures on the Summit site against the credit.

Enclosures

cc: James W. Carter
Daron Haddock
Randy Harden
Joe Helfrich
Mary Ann Wright

H:sumstat



State of Utah
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May 10, 1995

TO: Lowell P. Braxton, Associate Director, Mining

FROM: Pamela Grubaugh-Littig, Permit Supervisor *pgl*

RE: Chronology of Summit #1 (Blackhawk) Mine, Summit Minerals,
ACT/043/001, Folder #2, Summit County, Utah

Enclosed please find the chronology of the permitting and enforcement actions relative to the Summit #1 (Blackhawk) Mine.



November 12, 1985: DOGM petitioned the Board of Oil, Gas and Mining for enforcement action to be heard at the December 5, 1985 hearing.

December 5, 1985: Board hearing Ordered the Applicant to pay penalties for failure to comply with the September 17, 1985 Board Order, assume reclamation liability, post a reclamation bond, seal any open mine portals, and enter the property only for security and data acquisition for permitting.

March 1, 1986: District Court Judgment required payment of penalties and assigning reclamation liability referenced in December 5, 1985 Board hearing.

December 2, 1986: Complaint filed by the State of Utah Attorney General's Office asked for payment of assessed penalties from C85-1-1-1, C85-1-2-1, and C85-6-2-1.

GENERAL PERMITTING ACTIONS

June 4, 1986: Summit Minerals Company provided DOGM with collateral bond in the form of real estate appraised at the time at \$120,300. The bond was to cover reclamation of disturbances associated with forthcoming mining and reclamation plan.

February 20, 1987: Summit Minerals Company submitted a reclamation plan. After reviewing the reclamation plan, DOGM issued a decision indicating a mining and reclamation permit could be issued when Summit Minerals posted a reclamation bond totalling \$229,000.

1989- DOGM began legal proceedings to forfeit the collateral bond and sell the property.

1990- Bond forfeiture is completed, but current appraisals of the property show a value of less then \$15,000.

1991- DOGM Attempts to sell the collateral property were not successful.

1992- DOGM meets with surface owners to obtain their input on desired post-reclamation surface configuration.

1993- DOGM initiates aerial mapping of the property and removes hazardous Chalk Creek Bridge.

Page 3
May 10, 1995
Summit #1 Mine

1994- DOGM began study to identify abandoned mine land hazards in the environs of the Summit Mineral permit application area.

summit

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Jack Higgins, Black Hawk NOV # C85-1-1-1

PERMIT # INA/043/001 VIOLATION 1 OF 1

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 8-19-85 EFFECTIVE ONE YEAR DATE 8-20-84

PREVIOUS VIOLATIONS	EFF. DATE	PTS	PREVIOUS VIOLATIONS	EFF. DATE	PTS

- 1 point for each past violation, up to one year
- 5 points for each past violation in a CO, up to one year
- No pending notices shall be counted

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category the violation falls. Beginning at the mid-point of the category, the AD will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Event

A. Event Violations MAX 45 PTS

1. What is the event which the violated standard was designed to prevent? Conducting activities without appropriate approvals. Injury to the public.
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	RANGE	MID-POINT
None	0	
Insignificant	1-4	2
Unlikely	5-9	7
Likely	10-14	12
Occurred	15-20	17

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS The probability of the first listed event is assessed as occurred. Therefore, the CO is assessed as such. Per inspector, operator "wildcatted" on this site. Mine development in the form of access and pad development has taken place at this site without a permit or a bond for such activities.

3. Would or did the damage or impact remain within the exploration or permit area? No

	RANGE	MID-POINT
Within Exp/Permit Area	0-7*	4
Outside Exp/Permit Area	8-25*	16

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 22

PROVIDE AN EXPLANATION OF POINTS Damage resulted from a wildcat operation and was therefore not permitted or bonded. Extent of damage includes development of a road 300 feet X 40 feet and two pads 150 feet x 15-20 feet high, the blockage of two existing portals and a bridge. No topsoil was saved in the process. No perimeter markers, drainage control measures, permit signs or buffer zones were in place. Damage has continued since the early part of 1985.

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? _____

	RANGE	MID-POINT
Potential hindrance	1-12	7
Actual hindrance	13-25	19

Assign points based on the extent to which enforcement is hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS _____

TOTAL SERIOUSNESS POINTS (A or B) 42

III. NEGLIGENCE MAX 30 PTS

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;
 OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

		MID-POINT
No Negligence	0	
Negligence	1-15	8
Greater Degree of Fault	16-30	23

STATE DEGREE OF NEGLIGENCE Greater degree of fault

ASSIGN NEGLIGENCE POINTS 30

PROVIDE AN EXPLANATION OF POINTS Operator has been issued federal violations and received warnings from DOGM staff since April, 1984.

IV. GOOD FAITH MAX. -20 PTS. (either A or B)

A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area? IF SO
-EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20*
 (Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10*
 (Permittee used diligence to abate the violation)
- Normal Compliance 0
 (Operator complied within the abatement period required)

*Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

~~B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance? IF SO -~~
DIFFICULT ABATEMENT SITUATION

~~Difficult Abatement Situation~~

- ~~Rapid Compliance -11 to -20*
 (Permittee used diligence to abate the violation)~~
- ~~Normal Compliance -1 to -10*
 (Operator complied within the abatement period required)~~
- ~~Extended Compliance 0
 (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)~~

~~EASY OR DIFFICULT ABATEMENT?~~ difficult ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS This CO has not yet been abated. A failure to abate CO was recently issued. No good faith warranted.

V. ASSESSMENT SUMMARY FOR

C85-1-1-1

I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>42</u>
III. TOTAL NEGLIGENCE POINTS	<u>30</u>
IV. TOTAL GOOD FAITH POINTS	<u>0</u>

TOTAL ASSESSED POINTS 72

TOTAL ASSESSED FINE \$3,240.

Mary Ann Wright

ASSESSMENT DATE 8-19-85

ASSESSMENT OFFICER Mary Ann Wright

X PROPOSED ASSESSMENT

FINAL ASSESSMENT

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS & MINING

1588 West North Temple
Salt Lake City, Utah 84116
Telephone (801) 533-5771

DIVISION OF OIL,
GAS AND MINING V.
SUMMIT MINERALS I.

CESSATION ORDER NO.C

From the STATE OF UTAH
To the Following Permittee or Operator:

NAME JACK HIGGINS
 MINE BIRCHMOUNT SURFACE UNDERGROUND OTHER _____
 COUNTY AND STATE SUMMIT UTAH TELEPHONE 801-645-7565
 MAILING ADDRESS: 2763 HOLIDAY PARK LOOP, PACE COV, UTAH 84060
 OSM MINE NO. _____ STATE PERMIT NO. UWA 1145 (001) MSHA I. D. NO. _____
 CATEGORY OF OWNERSHIP: STATE FEE FEDERAL MIXED
 CATEGORY OF OWNERSHIP: STATE FEE. FEDERAL MIXED
 DATE OF INSPECTION FEBRUARY 28TH, 19 85
 TIME OF INSPECTION: FROM 2:30 a.m. to 3:30 p.m.
 NAME OF OPERATOR (if other than permittee) _____
 MAILING ADDRESS: _____

Under the authority of the Utah Coal Mining & Reclamation Act (Section 40-10-1 et seq., Utah Code Annotated), the undersigned authorized representative of the Director and Division of Oil, Gas & Mining has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued with respect to each of the conditions, practices or violations listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice or violation listed.

In accordance with Section 40-10-22, Utah Code Annotated, you are ordered to CEASE IMMEDIATELY the operations described in the attachment(s) and to perform the affirmative obligations described in the attachment(s) within the designated time for abatement. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

The undersigned authorized representative hereby finds that this Order does does not require cessation of mining expressly or in practical effect. For this purpose, "mining" means extracting coal from the earth or a waste pile and transporting it within or from the minesite.

This order shall remain in effect until it expires as provided on the reverse, or is modified, terminated or vacated by written notice signed by an authorized representative of the Secretary of the Interior.

Date of Service 3/1/85 Joseph C. Heifrich
SIGNATURE OF AUTHORIZED REPRESENTATIVE

Time of Service 2:50 a.m. p.m. JOSEPH C. HEIFRICH # 1
NAME AND I. D. NO.

Person Served with Notice JACK HIGGINS
PRINT NAME AND TITLE

NOTICE SENT VIA CERTIFIED MAIL # P 402457 577
Signature _____



STATE OF UTAH

Cessation Order No. C 85-1-1-1

Violation No. 1 of 1

Nature of Condition, Practice, or Violation

CONDUCTING UNDERGROUND COAL MINING ACTIVITIES WITHOUT DIVISION APPROVAL.

Provision(s) of the Regulations, Act, or Permit Violated

UTAH CODE ANNOTATED 1955 SECTION 40-10-9

Check Appropriate Box:

- The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.
- The permittee or operator has failed to abate Violation(s) No. _____ included in Notice of Violation No. N _____ within the time for abatement originally fixed or subsequently extended.

Operation(s) to be Ceased Immediately

ANY ACTIVITY ASSOCIATED WITH THE SITE DEVELOPMENT OF THE BLACKHAWK MINE

Affirmative Obligation(s) and Time for Abatement (if applicable)

CEASE ALL OPERATIONS IMMEDIATELY
SUBMIT A MINING AND RECLAMATION PLAN TO THE DIVISION OR RECLAIM THE AREA KNOWN AS THE BLACKHAWK MINE IN ACCORDANCE WITH THE RECLAMATION REQUIREMENTS OF UTAH'S PERMANENT COAL REGULATORY PROGRAM WITHIN 60 DAYS, NO LATER THAN APRIL 30TH 1985.

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

---oo0oo---

IN THE MATTER OF THE PETITION	:	FINDINGS OF FACT,
OF THE DIVISION OF OIL, GAS AND	:	CONCLUSIONS OF LAW,
MINING FOR AN ORDER REQUIRING	:	AND ORDER
CERTAIN ENFORCEMENT ACTIONS	:	
AGAINST JACK HIGGINS; SUMMIT	:	
MINERALS, INC.; SUMMIT ENERGY,	:	Docket No. 85-070
INC.; UTAH COAL AND ENERGY,	:	Cause No. INA/043/001
INC.; AND BENNETT LEASING CO.;	:	
AS OPERATORS OF THE BLACK HAWK	:	
MINE IN SUMMIT COUNTY, UTAH	:	

IN RE: JACK HIGGINS, CESSATION	:	Docket No. 85-055
ORDER C85-1-2-1, BLACK HAWK MINE,	:	Cause No. INA/043/001
SUMMIT COUNTY, UTAH	:	

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Pursuant to the Petitions of the Division of Oil, Gas and Mining ("Division" or "Petitioner") and Gary Boyer, Stephen Boyer and Joseph LaVerne Boyer (the "Boyers"), these causes came on for hearing before the Board of Oil, Gas & Mining, ("Board"), Department of Natural Resources and Energy, State of Utah, on Thursday, December 5, 1985, at 10 o'clock a.m. in the Board Room of the Division of Oil, Gas & Mining, 355 West North Temple, 3 Triad Center, Suite 301, Salt Lake City, Utah. The following Board members were present and participated in the hearing:

Gregory P. Williams, Chairman
James W. Carter
John M. Garr
E. Steele McIntyre
Charles R. Henderson

The Board was represented by Barbara W. Roberts,
Assistant Attorney General for the State of Utah.

Appearances for the Division of Oil, Gas & Mining were
made by:

Dr. Dianne R. Nielson, Division Director
Kenneth May, Associate Director, Mining

The Division was represented by Mark C. Moench,
Assistant Attorney General for the State of Utah.

Respondents Jack Higgins and Summit Minerals, Inc.
("Summit Minerals") were not present but were represented by A.
John Davis and Thomas A. Mitchell of Hugh C. Garner and
Associates, 310 South Main, Suite 1400, Salt Lake City, Utah
84101.

Respondents Utah Coal and Energy, Inc. ("Utah Coal")
and Summit Energy, Inc. ("Summit Energy") were not present or
represented at the hearing.

Respondent Bennett Leasing Co. ("Bennett Leasing") was
represented by Mark S. Swan of Corbridge, Baird & Christensen,
215 South State Street, Suite 800, Salt Lake City, Utah 84101.

The Boyers were represented by Patrick J. Garver of
Parsons, Behle and Latimer, 185 South State Street, Suite 700,
Salt Lake City, Utah 84101.

Testimony was given on behalf of the Division by Joseph
C. Helfrich, Randy Harden, and Lowell T. Braxton; Gary Boyer on
behalf of the Boyers; and Richard Kopp on behalf of Jack Higgins
and Summit Minerals.

NOW, THEREFORE, the Board having fully considered the petitions of the Division and the Boyers and the testimony adduced and the exhibits received in said hearing, and being fully advised in the premises, now makes and enters the following:

FINDINGS OF FACT AND

CONCLUSIONS OF LAW

1. Notice of the time and place for the public hearing was given to all parties according to law and the rules of the Board and no objection to said notice was heard.

2. The Board has jurisdiction over all matters covered by said petitions and over all parties named in the petitions.

3. At the hearing the petition of the Division in Docket No. 85-070 and of the Boyers in Docket No. 85-055 were consolidated for hearing.

4. The Boyers' motions to Intervene and file Boyers Reply to Jack Higgins and Summit Minerals' Response to Petition were granted.

5. The area at issue in the hearing was the Black Hawk Mine located in Section 36, T. 3 N. R. 6 E., Summit County, Utah.

6. The Board issued an order on January 23, 1980, which inter alia required that Utah Coal post a \$15,000 performance bond and submit a complete mining and reclamation plan by April 23, 1980, or pay a civil penalty of \$4250. Neither the bond nor a complete mining and reclamation plan has been filed with the Division by Utah Coal or any party acting on behalf of Utah Coal.

7. The Respondent Utah Coal knowingly and wilfully violated the Board's order of January 23, 1980, in that Utah Coal has failed to post a bond or file a complete mine plan and thus should be assessed a civil penalty in the amount of \$4250, which sum is due immediately from Utah Coal.

8. On August 14, 1985, Cessation Order C85-1-2-1 was issued to Jack Higgins based upon the failure of the operator of the Blackhawk Mine to abate Cessation Order C85-1-1-1 within the time provided therein.

9. On September 17, 1985 the Board issued an Order granting Mr. Higgins' Petition for Temporary Relief from the daily \$750.00 penalties imposed by C85-1-2-1 during the period September 9 to September 30, 1985. Although the Division terminated C85-1-2-1, the temporary relief Order required that Mr. Higgins file a reclamation bond in the amount of \$100,000.00 on or before September 30, 1985. Mr. Higgins failed to post a bond.

10. Summit Minerals, Summit Energy, Jack Higgins and Utah Coal have failed to comply with the terms of the Board's temporary relief Order dated September 17, 1985, in that they have failed to post the required reclamation bond. Pursuant to § 40-10-20, Utah Code Ann. (1981, as amended), the above-named persons or entities have wilfully and knowingly violated a final order issued by this Board and thus should be jointly and severally assessed a civil penalty of \$5,000, which sum is due immediately.

11. The operation of the Black Hawk Mine is in violation of § 40-10-9, Utah Code Ann. (1981, as amended) in that it is and since 1976 has been unpermitted and unbonded and has been engaged in surface coal mining operations

12. Jack Higgins, Summit Minerals, Summit Energy, and Utah Coal each is or has been an owner or operator of the Black Hawk Mine or has otherwise been responsible for and has exercised control over its operations, and has failed to obtain an approved mining and reclamation plan and bond and each of said parties is jointly and severally liable for reclamation of all existing disturbances.

13. Bennett Leasing is or has been an owner or operator of the Black Hawk Mine or has otherwise been responsible for or has exercised control over its operation and is jointly and severally liable for reclamation of all disturbances existing as of the date of Bennett Leasing's sale of the stock of Utah Coal to Summit Minerals.

14. With respect to the matter of a reclamation bond, Jack Higgins, Utah Coal, Summit Minerals, and Summit Energy are responsible for posting a reclamation bond within ten days, such bond to be in the amount of \$50,000. Such parties are also responsible for posting an additional bond in the additional amount of \$70,300 within 30 days, in order that within 30 days the total amount of the bond will be \$120,300. Such bonds must be in a form and from a surety acceptable to the Board.

15. If said parties shall fail to post either or both bonds as ordered, appropriate action for enforcement to insure reclamation of the mine site is necessary. Until such time as acceptable bonds in the amount of \$120,300 have been posted, all respondents should, on the basis of a history of past violations of Division and Board orders, be barred from occupancy of the Black Hawk Mine property except for the purposes of maintaining the security of the property and equipment thereon, this provision to be effective to the maximum extent permitted by law.

16. During the 30-day period prior to the posting of the bonds, no respondent or person acting on their behalf should be permitted to occupy the property, except to the extent they may be directed to do so by the Division to accomplish the closing of the portal if the Division deems that action appropriate for safety reasons.

17. At such time as approved sureties in the amount of \$120,300 have been posted, Jack Higgins, Utah Coal and Energy, Summit Minerals, and Summit Energy shall be allowed to have such access to and occupancy of the mine area as may be required for the limited purposes of gathering data and information as may be necessary in order to file a mining and reclamation plan with the Division. Those parties should file such a plan within 90 days, and the bond amounts shall be adjusted in accordance with the mining and reclamation plan in accordance with normal practices upon filing of such a plan.

ORDER

IT IS HEREBY ORDERED as follows:

1. Pursuant to § 40-10-20, Utah Code Ann. (1981, as amended) the Respondent Utah Coal is assessed a civil penalty in the amount of \$4250 relating to the failure to comply with the Board's Order of January 23, 1980, which sum is due immediately from Utah Coal.

2. Pursuant to § 40-10-20(6), Utah Code Ann. (1981, as amended) Summit Minerals, Summit Energy, Jack Higgins and Utah Coal are jointly and severally assessed a civil penalty of \$5,000 relating to the failure to comply with the Board's Order of September 17, 1985, which sum is due immediately.

3. The civil penalties owed hereunder may be recovered in a civil action by the Attorney General of the State of Utah in any appropriate district court of the state, pursuant to § 40-10-20(4), Utah Code Ann. (1981, as amended).

4. Jack Higgins, Summit Minerals, Summit Energy, and Utah Coal are jointly and severally liable for reclamation of all existing disturbances.

5. Bennett Leasing is jointly and severally liable for reclamation of all disturbances existing as of the date of the sale of the stock of Utah Coal from Bennett Leasing to Summit Minerals.

6. Jack Higgins, Utah Coal, Summit Minerals, and Summit Energy shall post a reclamation bond within ten days from December 6, 1985, such bond to be in the amount of \$50,000. Such

parties shall post an additional bond in the additional amount of \$70,300 within 30 days of December 6, 1985, in order that within 30 days the total amount of the bond will be \$120,300. Such bonds shall be in a form and from a surety acceptable to the Board.

7. If said parties shall fail to post either or both bonds as ordered, the Division is directed to take immediate appropriate action for enforcement of this Order. Until such time as acceptable bonds in the amount of \$120,300 have been posted, all respondents are barred from occupancy of the Black Hawk Mine property except for the purposes of maintaining the security of the property and equipment thereon, this provision to be effective to the maximum extent permitted by law.

8. During the 30-day period prior to the posting of the bonds, those parties may occupy the property to the extent they may be directed to do so by the Division. We have in mind the closing of the portal if the Division deems that appropriate for safety reasons and if the Division so determines. Our order is not intended to prevent those parties from complying with such a determination.

9. At such time as approved sureties in the amount of \$120,300 have been posted, Jack Higgins, Utah Coal, Summit Minerals, and Summit Energy shall be allowed to have such access to and occupancy of the property as may be required for the limited purposes of gathering data and information as may be necessary in order to file a reclamation plan with the Division.

Those parties are ordered to file such a plan within 90 days, and the bond amounts shall be adjusted in accordance with normal practices upon filing such a ^{plan} claim.

10. The effective date of this order shall be December 6, 1985, the concluding date of the hearing in this matter.

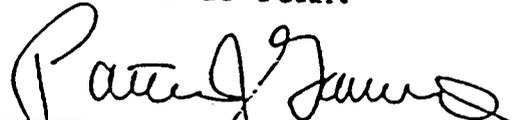
11. This is a final order of the Board.

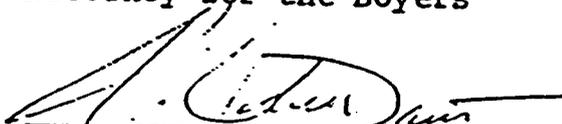
DATED this 13th day of December, 1985.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

By: 
GREGORY P. WILLIAMS, Chairman

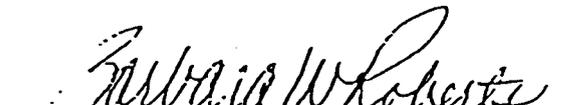
APPROVED AS TO FORM:


PATRICK J. GARVER, ESQ.
Attorney for the Boyers


JOHN DAVIS
Attorney for Jack Higgins and
Summit Minerals, Inc.


MARK SWAN, ESQ.
Attorney for Bennett Leasing Co.


MARK C. MOENCH
Assistant Attorney General
Attorney for the Division


BARBARA W. ROBERTS
Assistant Attorney General
Attorney for the Board

R645. Natural Resources; Oil, Gas and Mining; Coal.**R645-100. ADMINISTRATIVE: INTRODUCTION**

100. Scope

200. Definitions

300. Responsibility

400. Applicability

500. Petition to Initiate Rulemaking

600. Notice of Citizen Suits

700. Availability of Records

800. Computation of Time

R645-100. Administrative: Introduction.**R645-100-100. Scope.**

110. General Overview. The rules presented herein establish the procedures through which the Utah State Division of Oil, Gas and Mining will implement those provisions of the Coal Mining Reclamation Act of 1979, (the Act) pertaining to the effects of coal mining and reclamation operations and pertaining to coal exploration.

120. R645 Rules Organization. The R645 Rules have been subdivided into the four major functional aspects of the Division's coal mining and exploration State Program.

121. The heading entitled ADMINISTRATIVE encompasses general introductory material, definitions applicable throughout the R645 Rules, procedures for the exemption of certain coal extraction activities, designating areas unsuitable for coal mining, protection of employees, and requirements for blaster certification.

122. The heading entitled COAL EXPLORATION establishes the minimum requirements for acquiring approval and identifies performance standards for coal exploration.

123. The heading entitled COAL MINE PERMITTING describes certain procedural requirements and options attendant to the coal mine permitting process. Moreover, the minimum requirements for acquiring a permit for a coal mining and reclamation operation are identified.

124. The heading entitled INSPECTION AND ENFORCEMENT delineates the authority, administrative procedures, civil penalties, and employee protection attendant to the Division's inspection and enforcement program.

130. Effective Date. The provisions of R645-100 through and including R645-402 will become effective and enforceable upon final approval by the Office of Surface Mining, U.S. Department of the Interior. Existing coal regulatory program rules, R645 Chapters I and II, will be in effect until approval of R645-100 through R645-402 by the Office Surface Mining and will be considered repealed upon approval of R645-100 through R645-402.

R645-100-200. Definitions.

As used in the R645 Rules, the following terms have the specified meanings:

"Abandoned site" means, for the purpose of R645-400, a coal mining and reclamation operation for which the Division has found in writing that

- (a) All coal mining and reclamation operations at the site have ceased;

(b) The Division has issued at least one notice of violation or the initial program equivalent, and either:

(i) Is unable to serve the notice despite diligent efforts to do so; or

(ii) The notice was served and has progressed to a failure-to-abate cessation order or the initial program equivalent;

(c) The Division:

(i) Is taking action to ensure that the permittee and operator, and owners and controllers of the permittee and operator, will be precluded from receiving future permits while violations continue at the site; and

(ii) Is taking action pursuant to section 40-10-20(5), 40-10-20(6), 40-10-22(1)(d), or 40-10-22(2)(a) of the Act to ensure that abatement occurs or that there will not be a recurrence of the failure-to-abate, except where after evaluating the circumstances it concludes that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and

(d) Where the site is, or was, permitted or bonded:

(i) The permit has expired or been revoked, or permit revocation proceedings have been initiated and are being pursued diligently; and

(ii) The Division has initiated and is diligently pursuing forfeiture of, or has forfeited, the performance bond.

(e) In lieu of the inspection frequency established in R645-400-130 the Division shall inspect each abandoned site as necessary to monitor for changes of environmental conditions or operational status at the site.

(f) Before ceasing to perform inspections at the frequency required by R645-400-130 at an abandoned site, the Division will:

(i) Evaluate the environmental conditions and operational status of the site; and

(ii) Document in writing the inspection frequency necessary to comply with paragraph (e) of this definition and the reasons for selecting that frequency.

"Account" means the Abandoned Mine Reclamation Account established pursuant to 40-10-25 of the Act.

"Acid Drainage" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity discharged from an active, inactive, or abandoned coal mining and reclamation operation, or from an area affected by coal mining and reclamation operations.

"Acid-Forming Materials" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water, or weathering processes, form acids that may create acid drainage.

"Act" means Utah Code Annotated 40-10-1 et seq.

"Adjacent Area" means the area outside the permit area where a resource or resources, determined according to the context in which adjacent area is used, are or reasonably could be expected to be adversely impacted by proposed coal mining and reclamation operations, including probable impacts from underground workings.

"Administratively Complete Application" means an application for permit approval or approval for coal exploration, where required, which the

- public hearing will be held in the locality of the coal mining and reclamation operations from which bond release is sought, or at the location of the Division office, at the option of the objector.
- 880.700. For the purpose of the hearing under R645-301-880.600, the Division will have the authority to administer oaths, subpoena witnesses or written or printed material, compel the attendance of witnesses or the production of materials and take evidence including, but not limited to, inspection of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim record of each public hearing will be made and a transcript will be made available on the motion of any party or by order of the Division.
- 880.800. Without prejudice to the right of an objector or the applicant, the Division may hold an informal conference as provided in UCA 40-10-13(a) of the Act to resolve such written objections. The Division will make a record of the informal conference unless waived by all parties, which will be accessible to all parties. The Division will also furnish all parties of the informal conference with a written finding of the Division based on the informal conference and the reasons for said finding.
- 880.900. Forfeiture of Bonds.
- 880.910. If an operator refuses or is unable to conduct reclamation of an unabated violation, if the terms of the permit are not met, or if the operator defaults on the conditions under which the bond was accepted, the Division will take the following action to forfeit all or part of a bond or bonds for any permit area or an increment of a permit area:
- 880.911. Send written notification by certified mail, return receipt requested, to the permittee and the surety on the bond, if any, informing them of the determination to forfeit all or part of the bond including the reasons for the forfeiture and the amount to be forfeited. The amount will be based on the estimated total cost of achieving the reclamation plan requirements;
- 880.912. Advise the permittee and surety, if applicable, of the conditions under which forfeiture may be avoided. Such conditions may include, but are not limited to:
- 880.912.1. Agreement by the permittee or another party to perform reclamation operations in accordance with a compliance schedule which meets the conditions of the permit, the reclamation plan and the State Program and a demonstration that such party has the ability to satisfy the conditions; or
- 880.912.2. The Division may allow a surety to complete the reclamation plan, or the portion of the reclamation plan applicable to the bonded phase or increment, if the surety can demonstrate an ability to complete the reclamation in accordance with the approved reclamation plan. Except where the Division may approve partial release authorized under R645-301-880.100 through R645-301-880.800, no surety liability will be released until successful completion of all reclamation under the terms of the permit, including applicable liability periods of R645-301-820.300.
- 880.920. In the event forfeiture of the bond is required by this section, the Division will:
- 880.921. Proceed to collect the forfeited amount as provided by applicable laws for the collection of defaulted bonds or other debts if actions to avoid forfeiture have not been taken, or if rights of appeal, if any, have not been exercised within a time established by the Division, or if such appeal, if taken, is unsuccessful; and
- 880.922. Use funds collected from bond forfeiture to complete the reclamation plan, or portion thereof, on the permit area or increment, to which bond coverage applies.
- 880.930. Upon default, the Division may cause the forfeiture of any and all bonds deposited to complete reclamation for which the bonds were posted. Bond liability will extend to the entire permit area under conditions of forfeiture.
- 880.931. In the event the estimated amount forfeited is insufficient to pay for the full cost of reclamation, the operator will be liable for remaining costs. The Division may complete, or authorize completion of, reclamation of the bonded area and may recover from the operator all costs of reclamation in excess of the amount forfeited.
- 880.932. In the event the amount of performance bond forfeited was more than the amount necessary to complete reclamation, the unused funds will be returned by the Division to the party from whom they were collected.
890. Terms and Conditions for Liability Insurance.
- 890.100. The Division will require the applicant to submit as part of its permit application a certificate issued by an insurance company authorized to do business in Utah certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation activities for which the permit is sought. Such policy will provide for personal injury and property damage protection in an amount adequate to compensate any persons injured or property damaged as a result of the coal mining and reclamation operations, including the use of explosives and who are entitled to compensation under the applicable provisions of state law. Minimum insurance coverage for bodily injury and property damage will be \$300,000 for each occurrence and \$500,000 aggregate.
- 890.200. The policy will be maintained in full force during the life of the permit or any renewal thereof, including the liability period necessary to complete all reclamation operations under this chapter.
- 890.300. The policy will include a rider requiring that the insurer notify the Division whenever substantive changes are made in the policy including any termination or failure to renew.
- 890.400. The Division may accept from the applicant, in lieu of a certificate for a public liability insurance policy, satisfactory evidence from the applicant that it satisfies applicable state self-insurance requirements approved as part of the State Program and the requirements of R645-301-890.100 through R645-301-890.300.

KEY: reclamation, coal mines
1993

40-10-1 et seq.

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



JAN GRAHAM
ATTORNEY GENERAL

CAROL CLAWSON
Solicitor General

REED RICHARDS
Chief Deputy Attorney General

PALMER DePAULIS
Director of Policy & Communications

June 26, 1995

Arthur W. Abbs, Acting Director
Albuquerque Field Office
Office of Surface Mining
Reclamation and Enforcement
505 Marquette, NW Suite 1200
Albuquerque, New Mexico 87102

Re: Legal Eligibility for AML Funding
Blackhawk Mine AMR/043/910/L

Dear Mr. Abbs:

Please consider this letter as outlining the eligibility of the Blackhawk abandoned mine site for reclamation funding under Section 404 of P.L. 95-87.

This project consists of an abandoned, unreclaimed coal mine, operating as an illegal "wildcat" mine from 1976 through 1979. The full extent of the land disturbance (about 12-13 acres) was created prior to August 3, 1977, although minor activity continued on the site through 1979. The operator submitted two inadequate and unapproved permit applications and a reclamation bond was never posted. The company's principal is deceased, the company is defunct, and there cannot be said to be any enforceable "continuing reclamation responsibility" under the law.

In 1986, Summit Minerals Inc. applied for a permit and conducted coal exploration activities at the same Blackhawk mine site. All exploration activity occurred within the footprint of the previous disturbance. In lieu of a conventional bond, a tract of property near Wallsburg, Utah was posted as surety. In 1988, DOGM denied the exploration permit and ordered Summit

CC: Pam G-L
J. J. M. 7,

Arthur W. Abbs
June 26, 1995
Page 2

Minerals to reclaim the site. The operator failed to reclaim and the bond was forfeited September 25, 1990. DOGM holds the trustee's deed for the Wallsburg property and is actively working to sell it to recover reclamation funds.

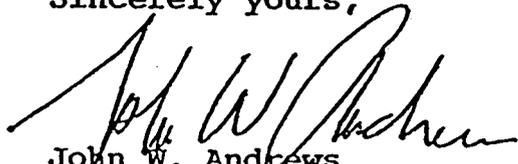
This project satisfies the requirements of Section 404 and is thereby eligible for funding under that section in that:

1. The project mine site was mined for coal or affected by such mining; and
2. The site was left in an inadequate reclamation status prior to August 3, 1977, by unpermitted "wildcat" operations; and
3. The site had various mining activity which took place between August 3, 1977 and January 21, 1981 with an insufficient (actually no) reclamation bond posted; and
4. The site was mined, or affected by exploration mining activities, between August 3, 1977 and November 5, 1990 with insufficient reclamation funds immediately available (surety bond in the form of real property); and
5. The site qualifies as a priority 2 site; and
6. There is no continuing reclamation responsibility under any other state or Federal laws, or county or municipal ordinances; and
7. Pursuant to Utah Rule R643-874-126, any and all monies that are ultimately recovered from responsible parties or the sale of the surety property shall be used to offset the cost of reclamation to the Utah Abandoned Mine Reclamation Program (UAMRP) or transferred to the UAMRP Account to reimburse the program for costs incurred for reclamation, if not required for further reclamation activities at the site.

Arthur W. Abbs
June 26, 1995
Page 3

Please refer to the enclosed Legal Eligibility Form for this site for further details or contact me or Mary Ann Wright, Arthur Administrator of the AMRP, if we can be of further assistance in facilitating the funding approval for this project.

Sincerely yours,



John W. Andrews
Assistant Attorney General

jwa/maw/jm
Enclosure:LE Form
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**Attachment
Blackhawk Project
Legal Eligibility Form**

Mining at the Blackhawk mine site dates back to 1879, with intermittent activity over the years since. The Title IV SMCRA eligibility issues center around mining disturbance and activity that occurred at the site shortly before and immediately after August 3, 1977.

Utah Division of Oil, Gas and Mining (DOG M) records show that in 1976 Utah Coal and Energy (UCE) performed mine development work at the Blackhawk site, grading the surface, exposing the coal seam, pouring concrete foundations, and disturbing an estimated 12-13 acres. By June, 1977 a culvert had been installed as an adit and the surface disturbance had almost doubled. However, no coal had been mined. Surface activity continued, and a small amount of mining occurred, in the first few months following August 3, 1977. By November, 1977 a single room had been mined and 5-10 tons of coal stockpiled. By the end of March, 1978 a second portal had been driven but was quickly abandoned due to slope failure. It is not apparent from the record that any further mining took place at the site after this date, although UCE continued surface work through the end of 1979.

UCE performed all of this work without filing an approved Notice of Intent to mine or Mine Reclamation Plan with DOGM. UCE resisted repeated requests from DOGM for compliance in filing a reclamation plan and bond, beginning in August, 1976. UCE submitted an incomplete reclamation plan in November, 1977 and another in December, 1978 under Board of Oil, Gas and Mining order. Neither was ever approved. On February 28, 1979 the Board issued an abatement order and, after continued noncompliance by UCE, on December 19, 1979 the Board issued a cessation order to halt all activity.

The UCE operation at the Blackhawk mine was never a permitted operation under SMCRA or Utah state reclamation law. UCE operated as an illegal "wildcat" mine from the outset, not applying for a permit until pressed and never posting a reclamation bond. The principal of the company is deceased and there cannot be said to be a "continuing reclamation responsibility" under the law. The full extent of the land disturbance was created prior to August 3, 1977. The post-SMCRA activity at the site was contained within the previous disturbance.

In 1986, Summit Minerals Inc. submitted an application for coal exploration at the Blackhawk mine. All activity by Summit Minerals occurred within the footprint of the previous disturbance. Summit Minerals posted as reclamation surety a tract of property near Wallsburg, Utah in lieu of a conventional bond. In 1988, after repeated compliance problems, DOGM denied the application for a permit and ordered Summit Minerals to reclaim the site. Summit Minerals failed to do so and the following year DOGM moved to forfeit the collateral bond (property). The bond forfeiture was complete on September

25, 1990 when DOGM received the trustee's deed for the Wallsburg property. Attempts by DOGM to sell the property to recover reclamation funds have been unsuccessful and prices offered substantially less than the amount needed to reclaim the site. DOGM is still in the process of trying to sell the land.

As a bond forfeiture site, the post-SMCRA bonded disturbance at the Blackhawk mine is the reclamation responsibility of DOGM's Coal Regulatory Program. DOGM has delegated reclamation construction procurement and contract management (using bond forfeiture funds) to the Abandoned Mine Reclamation (AMR) Program. Further, Title IV of SMCRA, as amended, and the Utah AMR Rules, reflecting the state and federal law, define a coal mine site with Priority 1 or 2 problems as eligible for Title IV funds if it meets any one of the following three conditions (paraphrased from Utah Rule R643-870-120 through 124):

- mined prior to August 3, 1977 with no continuing reclamation responsibility
- mined from August 3, 1977 to January 21, 1981 with an insufficient reclamation bond
- mined August 3, 1977 to November 5, 1990 with insufficient reclamation funds immediately available

The Blackhawk mine meets all three of these conditions. There is *no continuing reclamation responsibility* for the pre-1977 disturbance, and no bond at all (thus insufficient by definition) for the Utah Coal and Energy disturbance from 1976 to 1979. The funds from the Summit Minerals bond forfeiture are not available until the property is sold; all indications are that the amount that can be recovered through the sale will be insufficient to reclaim the mine site.

In addition, the Blackhawk site ranks as high or higher than other pre-1977 Priority 1 or 2 sites (see Rule R643-870-125). Ranking data is provided with the grant request. DOGM is committed to reimburse the Abandoned Mine Reclamation Account with any funds obtained through the sale of the Wallsburg property to offset the reclamation costs, pursuant to Rule R643-870-126.

Evaluation



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

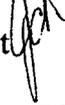
Michael O. Leavitt
Governor
Kathleen Clarke
Executive Director
Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210
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Salt Lake City, Utah 84114-5801
801-538-5340
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801-538-7223 (TDD)

January 25, 2001

TO: Internal File

THRU: Daron R. Haddock, Permit Supervisor 

FROM: Joseph C. Helfrich, Sr. Reclamation Specialist 

RE: Inspection Frequency, New Tech Mining Corp., Blackjack No.1 Mine, EXP/019/004

SUMMARY:

The historical perspective for the Blackjack #1 Mine is based on information in the files for calendar years 1991 and 92. Prior to and after that period personal recollection is the best account of the activities at the Blackjack #1 mine. There had been mining activity at this site prior to the implementation of SMCRA. New Tech Mining Corp. conducted exploration activities under an exploration permit during the mid 1980's. A bond for approximately \$50,000 had been posted with the Division for the exploration project. Records of inspections as needed occurred through 1992 indicating that the site had been abandoned since 1991. Reclamation activities commenced in November of 1992 and were completed that year under the guise of the Title V program.

TECHNICAL ANALYSIS:

For the purpose of R645-400-133 the Division has found that:

- a) Inspections occurred at the exploration site as were necessary during the exploration and reclamation activities.
- b) The site was abandoned and the bond in the amount of approximately \$50,000 was forfeited sometime during the late 1980's.

TECHNICAL MEMO

FINDINGS:

In accordance with R645-400-133 inspections were conducted as necessary to ensure compliance with the requirements of the Title V coal program.

RECOMMENDATION:

Additional inspections may be warranted in the event of a natural disaster or unusual site conditions.

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

CC: Mary Ann
Pam

Michael O. Leavitt
Governor

Kathleen Clarke
Executive Director

Lowell P. Braxton
Division Director

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January 12, 2001

TO: ~~Internal File~~

THRU: Daron R. Haddock, Permit Supervisor 

FROM: Joe C. Helfrich, Sr. Reclamation Specialist

RE: Inspection Frequency, Summit Coal Company, Boyer Mine, C/043/008

SUMMARY:

Bond forfeiture proceedings for the Boyer Mine were initiated June 23, 1989, and the Boyer Mine permit was revoked by the Division of Oil, Gas, and Mining August 4, 1989. The portals were sealed under separate contract October 5, 1990. Inspections continued on a monthly basis through September of 1994 and reclamation activities administered by the AMR program commenced on November 3, 1994 and were completed April 17, 1995.

Analysis:

For the purpose of **R645-400** the Division has found that:

- a) All coal mining and reclamation operations had ceased prior to the portals being sealed. The portals were backfilled and fenced on October 5, 1990. The cessation of operations was precipitated by operating costs, poor roof and floor conditions as well as the interception of large volumes of mine water. The site was abandoned by the operator leaving the disturbed area unreclaimed. Inspections continued in accordance with the requirements of **R645-400** through September of 1994. On November 21, 1994 former Director James W. Carter prepared a memo to the Boyer mine file stating the Division's position relative to future inspections at the Boyer mine. A copy of that memo is provided with this document.
- b) The bond forfeiture and permit revocation information were entered into the Applicant Violator System to ensure that the permittee and operator, and owners and controllers of the permittee and operator, would be precluded from receiving future permits.

TECHNICAL MEMO

January 12, 2001

- c) .Reclamation activities were completed under the direction of the AMR Title IV on April 17, 1995.

Findings:

In accordance with R645-100-200, (definitions) the Division has found that the Boyer Mine has met the criteria for the definition of "Abandoned Site" for the purpose of R645-400. The Division had inspected the site as necessary to monitor for changes in environmental conditions or operational status at the site. Final reclamation was completed in 1995.

RECOMMENDATION:

In accordance with R645-100-200 Abandoned Site definition (f)(ii), for the Boyer Mine, additional inspections as needed may be warranted in the event of a natural disaster or unusual site conditions.

sm

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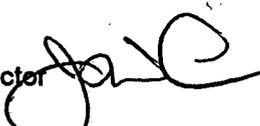


State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

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Salt Lake City, Utah 84180-1203
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801-359-3940 (Fax)
801-538-5319 (TDD)

November 21, 1994

TO: Boyer Mine File
FROM: James W. Carter, Director 
RE: Boyer Mine, ACT/043/008, Folder #2, Summit County, Utah

The Boyer Mine permit was revoked by the Division of Oil, Gas and Mining (DOGM) August 4, 1989, and bond forfeiture proceedings were initiated June 23, 1989. On April 2, 1992, the collateral property that was the basis for the reclamation bond for the Boyer mine was sold and the proceeds of the sale were deposited. Funds were deposited on April 6, 1992, in an account maintained by the Division.

The Division has been inspecting the Boyer Mine for compliance with the requirements of the Coal Regulatory Program, the abandoned status of the mine notwithstanding.

On November 3, 1994, reclamation of this property commenced. engineering of the final reclamation configuration has been deemed adequate by representatives of the Coal Regulatory Program, and supervision of the reclamation project and requisite contract determinations will be under the control of the Division's Abandoned Mine Land Program.

With the commencement of reclamation activities by the Division, I have determined that compliance inspection of this will no longer be needed. Under bond forfeiture, there is no requirement for adherence to bond release criteria, as there is no bond to release. Performance of the reclamation conducted by a state regulatory authority has been found by the Office of Surface Mining (OSM) to be a function of funds available through bond forfeiture. In the case of Boyer the DOGM will not pursue owners and controllers for additional reclamation bonding.

When the presently budgeted reclamation has been completed, and the surface has been seeded, Randy Harden should conduct a field review of the site assisted by other DOGM staff including the AML contract manager to determine the site's configuration and performance ability under the reclamation design. This group should draft a recommendation to me indicating earliest date that this site can be returned to the surface owner for the commencement of post mining land use.

vb
cc: L. Braxton
G. Grubaugh-Littig
D. Haddock
J. Helfrich
R. Harden
M. Wight
D. Donnelly

BOYER114





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

cc: Mary Ann
Pam

Michael O. Leavitt
Governor
Kathleen Clarke
Executive Director
Lowell P. Braxton
Division Director

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801-538-7223 (TDD)

January 9, 2001

TO: Internal File

THRU: ~~Daron R. Haddock~~, Permit Supervisor 

FROM: Joe C. Helfrich, Sr. Reclamation Specialist

RE: Inspection Frequency, Sunnyside Coal Company, Sunnyside Mine, C/007/007

SUMMARY:

The Sunnyside mine has been abandoned since approximately May of 1995. According to the files and personal recollection the owners of the Sunnyside mine filed for Chapter 7 bankruptcy on July 7, 1995. The Bankruptcy court appointed Ken Rushton as trustee for the property and buildings. Inspections continued on a monthly basis through September of 1996. A settlement agreement was reached on November 22, 1996 where the Division was to receive three bond forfeiture payments totaling \$1,850,184. Payments were received and the reclamation work was contracted by the AMR program through a separate contractor. Reclamation activities commenced in 1998 and ended in 1999.

Analysis:

For the purpose of **R645-400** the Division has found that:

- a) All coal mining and reclamation operations had ceased as of May 1995.
- b) The Division had issued two enforcement actions during the period of bond forfeiture, (# C95-32-01-01 dated 1/19/94 and N95-32-02-01 dated 7/10/95). The cessation order was vacated by the Board of Oil Gas and Mining and the civil penalty for the notice of violation was dismissed by the assessment conference officer.
- c) The Division entered the bond forfeiture information into the Applicant Violator System to ensure that the permittee, operator, owners and controllers of the permittee and operator, would be precluded from

TECHNICAL MEMO

January 9, 2001

receiving future permits.

- d) The site was originally bonded for approximately \$70,000. The November 22, 1996 settlement agreement provided for an additional \$1,850,184 dollars for reclamation.

Findings:

In accordance with R645-100-200, (definitions) the Division has found that the Sunnyside Mine has met the criteria for the definition of "Abandoned Site" for the purpose of R645-400. The Division has inspected the site as necessary to monitor for changes in environmental conditions or operational status at the site. Final reclamation was completed in 1999.

RECOMMENDATION:

In accordance with R645-100-200 Abandoned Site definition (f)(ii), the Sunnyside Mine should be inspected as needed, to monitor the environmental conditions and operational status of the site. Additional inspections may be warranted in the event of a natural disaster or unusual site conditions.

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