



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

MINING AND MINERALS DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-5970

Jennifer A. Salisbury
CABINET SECRETARY

October 22, 1999

Douglas M. Bland
DIVISION DIRECTOR

Jim Luther
Environmental Coordinator
San Juan Mine
P.O. Box 561
Waterflow, New Mexico 87421

Re: San Juan Permit 99-01

Dear Mr. Luther:

Enclosed for your records is the Director's issuance of Permit 99-01 formalizing approval of the new underground mine, the change of mining method from surface stripping to continuous highwall mining and modifications submitted with the permit renewal in May.

Please note Permit 99-01 contains three special permit conditions. The first prohibits mining in any area where federal approval of a mining plan or lease is required. The second sets July 1, 2000 as the deadline for a plan to monitor the effect subsidence may have on archaeological properties. MMD and BLM must approve this plan. The final condition sets January 30, 2002 as the date by which final back filling and grading will be completed at the Cottonwood Pit. Please make the appropriate changes to exhibits and text.

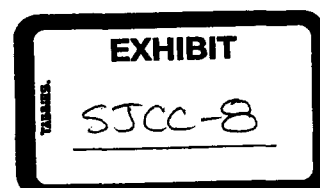
Please acknowledge the permit by signing in the appropriate line on page 5. Retain one copy for your records and return the other to me. The copy of the Director's Finding is for your records.

We appreciate all the hard work you and your staff have put into the new permit. Please contact me if you have any questions.

Sincerely,

James O'Hara
Coal Program Manager

Cc: Charlie Beecham, BLM-Farmington
Dr. Robert Block, OSM-WRCC
Mr. Willis Gainer, OSM-AFO



**MINING AND MINERALS DIVISION
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT**

The Director of the Mining and Minerals Division (MMD), New Mexico Energy Minerals and Natural Resources Department, issues permit 99-01 to:

San Juan Coal Company
P.O. Box 561
Waterflow, New Mexico 87421

(Permittee) to expand their coal mining and reclamation operations to include approximately 9,600 acres for an underground mine contiguous to and immediately east of the San Juan Mine and to change the current method of mining on the surface mine to continuous highwall mining. This permit is covered by the current performance bond, payable to the State of New Mexico in the total amount of **forty-eight million dollars** (\$48,000,000.00), for Permit 99-01 (Letter of Credit LCPG-0244).

Section 1. **STATUTES AND REGULATIONS**

This Permit is issued pursuant to the New Mexico Surface Mining Act, §69-25A-1, et seq. NMSA 1978 (the Act).

This permit revision is subject to the provisions of Permit 99-01 and all applicable regulations of the Coal Surface Mining Commission (CSMC), including but not limited to 19 NMAC 8.2 and any other regulations which are now or hereafter in force, and all such regulations are made a part of this Permit by this reference.

Section 2. **MINING AREA**

The Permittee is authorized to conduct coal mining and reclamation operations only on those lands that are specifically designated and authorized by this Permit Revision Application Package (PRAP) and secured by an adequate performance bond.

The Permittee shall only conduct coal mining and reclamation operations on those lands secured by an adequate performance bond.

Section 3. **COMPLIANCE WITH THE PERMIT APPLICATION PACKAGE**

The Permittee shall conduct coal mining and reclamation operations only as described in the approved PRAP, the Director's Order of Approval with Findings of Fact, Conclusions of Law, Permit Conditions and Permit 99-01, hereby incorporated by reference, and any revisions or modifications approved by the Director. The Permittee shall comply with any and all conditions that are incorporated in this Permit Revision or Permit 99-01. (See Section 9, infra).

Section 4.

COMPLIANCE REQUIREMENTS

- A. The Permittee shall comply with the statutes and regulations in Section 1 and with the terms and conditions of any lease on State and Federal lands.
- B. The Permittee shall conduct his operation(s):
 - 1. in accordance with any measure specified in the permit as necessary to prevent significant, imminent environmental harm to the health or safety of the public; and
 - 2. utilizing any method specified in the permit by the Director in approving alternative methods of compliance with the performance standards of the Act and these rules and regulations, in accordance with the provisions of the Act, 19 NMAC 8.2 Section 1106.M and subpart 20.
- C. The Permittee shall pay all reclamation fees required for Abandoned Mine Land Reclamation under Section 402 of Public Law 95-87 for coal produced under the permit for sale, transfer or use in the manner required by that Section.

Section 5.

AGENCY RIGHT OF ENTRY

The Permittee shall allow the authorized representatives of the Director without advance notice, or a search warrant, upon presentation of appropriate credentials, and without delay to:

- A. the right of entry provided for in 19 NMAC 8.2 Section 2900; and
- B. be accompanied by one or more citizens for the purpose of conducting an inspection in accordance with 19 NMAC 8.2 Section 2901 when the inspection is in response to an alleged violation(s) reported by one or more citizens.
- C. Representatives of the Secretary of the U.S. Department of Interior, including, but not limited to, inspectors and fee compliance officers and the Director of the Office of Surface Mining, Reclamation and Enforcement (OSMRE) have the rights of entry provided for in Section 2900; and may be accompanied by private persons for the purpose of conducting an inspection in accordance with Subpart 29, when the inspection is in response to an alleged violation(s) reported to the Director of OSMRE by the private person.

Section 6.

PERMIT COVERAGE

This Permit Revision shall be binding on any person conducting coal mining and reclamation

operations under Permit 99-01.

Section 7.

ENVIRONMENTAL COVERAGE

The Permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from a noncompliance with any term or condition of the Permit, including, but not limited to:

- A. any accelerated or additional monitoring necessary to determine the nature and extent of the noncompliance and the results of the noncompliance;
- B. immediate implementation of measures necessary to comply; and
- C. warning to any person whose health and safety are in imminent danger due to the noncompliance, as soon as possible after learning of a noncompliance.

The Permittee shall dispose of solids, sludge, filter backwash, or pollutants removed in the course of treatment or control of waters or emissions to the air in the manner required by 19 NMAC 8.2 Subpart 20, the Act, and these rules and regulations, and prevent violations of any applicable State or Federal law.

The permittee shall conduct his operations in accordance with any measure specified in the PRAP as necessary to prevent significant imminent environmental harm to the health or safety of the public.

Section 8.

COMPLIANCE WITH 19 NMAC 8.2 Section 901

The Permittee shall comply with 19 NMAC 8.2 Section 901 for modification or abandonment of existing structures.

Section 9.

CONFORMANCE OF PERMIT

The Permittee has expressly undertaken in this permit revision application to comply with various performance standards and design criteria presently contained in or derived from 19 NMAC 8.2 of the New Mexico Coal Surface Mining Regulations. Such undertakings are made upon the condition and with the understanding that any amendments to 19 NMAC 8.2 shall entitle the Permittee to apply for and receive a review of the related permit provisions for the purpose of conforming the permit to the amended state regulations or making other appropriate permit amendments. The Permittee and the Mining and Minerals Division shall meet within thirty (30) days of request by the Permittee or notice by the Director for the purpose of considering such amendments to the permit as are appropriate.

Section 10.

SPECIAL CONDITIONS

The San Juan Coal Company shall comply with the following special conditions:

1. All surface coal mining and reclamation operations are prohibited on Federal lands within the permit area prior to the approval of the Resource Recovery and Protection Plan (R2P2) submitted to the Bureau of Land Management, Farmington Resource Area, and a determination by the Office of Surface Mining Reclamation and Enforcement that no mining plan modification is required or, if such action is required, until the Secretary of the Interior has approved a mining plan modification.
2. Prepare a plan to monitor the effects subsidence, resulting from the underground long wall operations, may have on historic properties. The plan shall be submitted to MMD on or before July 1, 2000 and will be submitted to the Bureau of Land Management, the Office of Surface Mining and the New Mexico Historic Preservation Division for review and approval. San Juan Coal Company will be responsible for making any changes necessary to the plan to obtain the necessary approvals.
3. Final backfilling and grading of the Cottonwood Pit will be completed no later than January 30, 2002.

Section 11.

OTHER PERMIT CONDITIONS

1. All cultural resources determined eligible to the National Register of Historic Places shall be protected consistent with an approved plan and shall not be disturbed or mined without prior written approval from the Director of MMD.
2. In the event previously unknown cultural or historic properties are encountered during mine-related activities, the Permittee shall immediately protect the properties from further mining disturbance. The Director shall be notified immediately. The Permittee shall protect the properties from any disturbance until they have been properly evaluated for eligibility to the National Register of Historic Places in accordance with 36 CFR Part 60.4 and consultations with the New Mexico Historic Preservation Officer (SHPO) have been completed pursuant to Section 106 of the National Historic Preservation Act and 36 CFR Part 800. If appropriate, the Permittee shall, in consultation with the Director and the SHPO, prepare and implement a treatment plan designed to mitigate the effects mining or reclamation operations conducted under this permit may have on properties eligible to the National Register of Historic Places. This treatment plan shall be approved by the Director prior to its implementation. If necessary, the treatment plan shall be conducted at the expense of the Permittee.
3. In the event undocumented human remains are located or exposed during mining activities in the permit area, the Permittee shall immediately notify the Director. Should

a burial be exposed during earthmoving activities, the burial shall be protected from further disturbance until disposition of the burial has been resolved. The final disposition of human burials will be carried out in accordance with all applicable guidelines, regulations and laws.

The State of New Mexico

BY: *DMB*
Douglas M. Bland, Director
Mining and Minerals Division
Energy, Minerals and Natural
Resources Department

Dated: 10/22/99

I certify that I have read, understand and will comply with the requirements of the Permit and Special Conditions that are a part of it.

Authorized Representative of the Permittee

Name: _____

Title: _____

Dated: _____

BEFORE THE DIRECTOR OF THE MINING AND MINERALS DIVISION

Permit No.99-01

IN THE MATTER OF THE SAN JUAN COAL COMPANY'S APPLICATION FOR A
PERMIT REVISION TO EXPAND THE SAN JUAN SURFACE COAL MINE TO
INCLUDE AN UNDERGROUND OPERATION

THESE MATTERS having come before the Director of the Mining and Minerals Division (Director), of the Energy, Minerals and Natural Resources Department, of the State of New Mexico, upon the application of the San Juan Coal Company (SJCC), a Division of BHP Operations, Inc., to:

1. change the method of mining in the Pinion, Juniper and Cottonwood mining areas of the existing San Juan Mine (SJM) from surface stripping to continuous highwall mining; and
2. expand the SJM permit to include approximately 9,600 acres for an underground mine. The underground mining area, referred to as the Deep Lease and Deep Lease Extension, is contiguous to and immediately east of the SJM. It is located in T30N, R15W (Sections 13, 14, 23, 24, 25, 26, 35 and 36) and R14W (Sections 17, 18, 19, 20, 29, 30, 31 and 32) as identified in Exhibit 701.1 of the permit revision application package.

The Director having considered both permit revision applications (Permit 99-01), reviewed the Division's files and being otherwise fully advised in the premises, now enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Director has jurisdiction over the **San Juan Surface Coal Mine** located in San Juan County, New Mexico, and the subject matter of this permit revision.
2. The permit revision is issued pursuant to the New Mexico Surface Mining Act, §69-25A-1 et seq. NMSA (1978) (Act), the Coal Surface Mining Commission's Rules (19 NMAC 8.2), the New Mexico State-Federal Cooperative Agreement (30 CFR Part 931.30), and all laws and regulations which are now or hereafter in force. All such laws and regulations are made a part of this Order by reference.

3. Permit 99-01, submitted to the Mining and Minerals Division (MMD) on March 15, 1999 (underground revision) and May 28, 1999 (method of mining plan revision), is complete, accurate and complies with the requirements of the Act and 19 NMAC 8.2.
4. The Applicant has demonstrated that coal mining and reclamation operations, as required by the Act and 19 NMAC 8.2, can be accomplished under the mining and reclamation plan contained in Permit 99-01, incorporated in this Order by reference.
5. The Director has assessed the cumulative hydrological consequences of all anticipated coal mining in the cumulative impact area, and determined that the operations as described in Permit 99-01 have been designed to prevent damage to the hydrologic balance outside the proposed permit area.
6. The Director finds, on the basis of the information provided in Permit 99-01, that the proposed permit area:
 - A. is **not** included within an area designated unsuitable for coal mining operation under 19 NMAC 8.2 Subpart 4; and,
 - B. is **not** within an area under study for designation as unsuitable for coal mining operations in an administrative proceeding begun under 19 NMAC 8.2 Subpart 4; and,
 - C. is **not** on any lands subject to the prohibitions or limitations of 19 NMAC 8.2 Section 201; and,
 - D. is **not** within 100 feet of the outside right-of-way line of any public road except as provided for in 19 NMAC 8.2 Section 202(c); and,
 - E. is **not** within 300 feet from any occupied dwelling, except as provided for in 19 NMAC 8.2 Sections 201(c) and 202(d).
7. The proposed operations will not adversely affect any publicly owned parks or places included in the National Register of Historic Places, except as provided for in 19 NMAC 8.2 Section 201(a).
8. The applicant has demonstrated to the Director that it has a right of entry to private lands where the mineral estate to be mined has been severed from the surface estate.
9. On October 22, 1999, the Director confirmed, through a check of the Office of Surface

Mining's (OSM) Applicant Violator System (AVS), that the applicant is current on the payment of all reclamation fees required for Abandoned Mine Land Reclamation under Section 402 of Public Law 95-87.

10. The Applicant has demonstrated that it has not controlled and does not control a mining operation with a pattern of willful violations of such nature, duration and with such irreparable damage to the environment as to show a noncompliance with the Act and with 19 NMAC 8.2 Section 1 105.C. On October 22, 1999, the Director accessed OSM's AVS to check for outstanding violations, failure to abate cessation orders, violations of other applicable federal or state laws or rules pertaining to air and water environmental protection and to determine if any persons who owns or controls the Applicant are in good standing with OSM. A recommendation of "Issue" was received from AVS.
11. The coal mining and reclamation operations performed under this permit revision are consistent with other such operations that currently exist under the permit.
12. The Applicant has a performance bond approved by the Director currently in the amount of **forty-eight million dollars** that will continue in full force and effect until otherwise determined by the Director consistent with provisions of 19 NMAC 8.2 Subpart 14. This revision represent an increase to the current bond calculation of one million dollars (\$1,000,000.00) to cover reclamation associated with the underground mine determined appropriate by the Director pursuant to 19 NMAC 8.2 Section 1404. The current bond includes a 4 million-dollars (\$4,000,000.00) contingency, part of which will be used to cover the increase in bond for the underground operations.
13. The Director has determined, based on information provided in the Permit 99-01, that the permit will not affect prime farmland or alluvial valley floors.
14. The Director has approved the proposed postmining land use of the permit revision area in accordance with the requirements of 19 NMAC 8.2 Section 2073.
15. The Director has made all specific approvals required under 19 NMAC 8.2 Subpart 20.
16. The Director has found mining and reclamation activities will not affect the continued existence of endangered or threatened species, indigenous to the State, or any other species protected under the Endangered Species Act of 1973, or result in the destruction or adverse modification of their critical habitats contrary to State or Federal law.
17. The Director has determined, in consultation with the New Mexico Game and Fish Department that the Fish and Wildlife Plan is adequate to meet the requirements of 19

NMAC 8.2 Section 905.

18. The Director has taken into account the effect of the proposed permitting action on properties listed on, or eligible for listing on, the National Register of Historic Places. On April 26, 1999, consultation with the New Mexico Historic Preservation Division, required pursuant to Section 106 of the National Historic Preservation Act, was completed with concurrence of a determination of No Adverse Effect, conditioned on the implementation of the approved data recovery plan.
19. Any additional revised or updated information required by the Director has, or will be, provided by the applicant.

GENERAL OBLIGATIONS AND CONDITIONS

The San Juan Underground Mining Area is subject to the following General Obligations and Conditions:

1. The Applicant shall conduct reclamation operations only on those lands that are specifically designated in Permit 99-01 on the maps submitted with the revision application and authorized for the term of the permit, and secured by an adequate performance bond.
2. The Applicant shall conduct all reclamation operations only as described in Permit 99-01 and the revision application, except to the extent that the Director otherwise directs.
3. The Applicant shall comply with the terms, obligations and conditions of Permit 99-01 and revision application, incorporated by reference into this document, any Special Conditions set forth in this document by the Director, and all applicable performance standards of 19 NMAC 8.2 and other requirements of the regulatory program.
4. Establish to the Director that the applicant or any person owned or controlled by either this applicant or any person who owns or controls the applicant, has corrected or is in the process of correcting a violation or has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of that violation. If the administrative or judicial hearing authority either denies a stay applied for in the appeal or affirms the violation, then the applicant shall within 30 days of the judicial action submit proof required under 19 NMAC 8.2 paragraph 1105.C(1)(i).
5. All cultural resources determined eligible to the National Register of Historic Places shall be protected consistent with an approved plan and shall not be disturbed or mined without

prior written approval from the Director of MMD.

6. In the event previously unknown cultural or historic properties are encountered during mine-related activities, the Applicant shall immediately protect the properties from further mining disturbance. The Director shall be notified immediately. The Applicant shall protect the properties from any disturbance until they have been properly evaluated for eligibility to the National Register of Historic Places in accordance with 36 CFR Part 60.4 and consultations with the New Mexico Historic Preservation Officer (SHPO) have been completed pursuant to Section 106 of the National Historic Preservation Act and 36 CFR Part 800. If appropriate, the Applicant shall, in consultation with the Director and the SHPO, prepare and implement a treatment plan designed to mitigate the effects mining or reclamation operations conducted under this permit may have on properties eligible to the National Register of Historic Places. This treatment plan shall be approved by the Director prior to its implementation. If necessary, the treatment plan shall be conducted at the expense of the Applicant.
7. In the event undocumented human remains are located or exposed during mining activities in the permit area, the Applicant shall immediately notify the Director. Should a burial be exposed during earthmoving activities, the burial shall be protected from further disturbance until disposition of the burial has been resolved. The final disposition of human burials will be carried out in accordance with all applicable guidelines, regulations and laws.

SPECIAL CONDITIONS

1. All coal mining operations are prohibited on Federal lands within the permit area prior to the approval of the Resource Recovery and Protection Plan (R2P2) submitted to the Bureau of Land Management, Farmington Resource Area, and a determination by the Office of Surface Mining Reclamation and Enforcement that no mining plan modification is required or, if such action is required, until the Secretary of the Interior has approved a mining plan modification.
2. SJCC will prepare a plan to monitor the affects subsidence, resulting from the underground long wall operations, may have on historic properties. The plan shall be submitted to MMD on or before July 1, 2000 and will be submitted to the Bureau of Land Management, the Office of Surface Mining and the New Mexico Historic Preservation Division for review and approval. SJCC will be responsible for making any changes necessary to the plan to obtain the necessary approvals.

3. Final backfilling and grading of the Cottonwood Pit will be completed no later than January 30, 2002.

CONCLUSIONS OF LAW

1. The Director has jurisdiction over the applicant and the subject matter of this proceeding.
2. The Applicant is entitled to conduct coal mining and reclamation operations at the San Juan Surface Coal Mine in San Juan County, New Mexico, upon the conditions that the Applicant complies with the requirements of the Order, the Act, 19 NMAC 8.2, Permit No.99-01, all Permit Conditions and any Special Conditions imposed by this Order, the posting of the bond specified herein, and upon the submission of such annual reports and fees as may be required under 19 NMAC 8.2.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Permit 99-01, submitted by the Applicant to conduct underground coal mining and to change the current method of mining on the surface mine to continuous highwall mining, is approved. The revision shall be subject to all conditions set out in this Director's Order of Approval with Findings of Fact Conclusions of Law and Permit Conditions, and obligations and conditions of Permit 99-01.

By Order of the Director, Mining and Minerals Division, Energy, Minerals and Natural Resources Department, of the State of New Mexico.

Dated this 22 day of October, 1999

DMA

Douglas M. Bland
Director
Mining and Minerals Division
Energy, Minerals and Natural Resources Department



San Juan Coal Company
New Mexico Coal
BHP Coal

January 16, 2001

Mr. Jim O'Hara
Permitting Coordinator
New Mexico Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

SJM, Deep Lease Permit 99-01, Special Condition No. 1-R2P2 Approval

Dear Mr. Jim O'Hara,

San Juan Mine is submitting one copy of U.S. Department of Interior's approval for San Juan Coal Company's R2P2 application for Federal Lease NM-28093 for your records. This approval letter meets special condition no. 1 as stated in San Juan Permit 99-01 approval dated October 22, 1999.

Should have any further questions regarding this submittal, please call Steve Lynch.
(505) 598-2029.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Luther".

Jim Luther
Environmental Coordinator

CC: EQD Files



United States Department of the Interior

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT Washington, D.C. 20240

JAN 10 2001

MEMORANDUM



TO: Sylvia Baca, Assistant Secretary
Land and Minerals Management

FROM: *Katharine L. Henry*
Katharine L. Henry, Acting Director

SUBJECT: Recommendation for Approval of the Mining Plan Modification for Federal Lease NM-28093 at San Juan Coal Company's San Juan Mine located in San Juan County, New Mexico

I recommend approval without special conditions of this mining plan modification. My recommendation is based on:

- (1) San Juan Coal Company's complete permit application package (PAP),
- (2) compliance with the National Environmental Policy Act of 1969;
- (3) documentation assuring compliance with applicable requirements of other Federal laws, regulations and executive orders;
- (4) comments and recommendations or concurrence of other Federal agencies, and the public;
- (5) the findings and recommendations of the Bureau of Land Management regarding the resource recovery and protection plan, the Federal lease requirements, and the Mineral Leasing Act, and
- (6) the findings and recommendations of the New Mexico Mining and Minerals Division, New Mexico Energy, Minerals and Natural Resources Department regarding the PAP and the New Mexico State program.

The Secretary may approve a Mining Plan for Federal leases under 30 U.S.C. 207(c) and 1273(c). In accordance with 30 CFR Chapter VII, Subchapter D, I find that the proposed mining plan modification will be in compliance with all applicable laws and regulations. The decision document for the proposed mining plan action is attached.

Attachment

UNITED STATES
DEPARTMENT OF THE INTERIOR

This mining plan approval document is issued by the United States of America to:

San Juan Coal Company
P.O. Box 561
Waterflow NM 87421

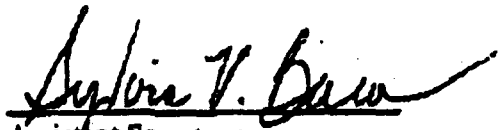
for a mining plan modification for Federal lease NM-28093 at the San Juan Mine. The approval is subject to the following conditions. San Juan Coal Company is hereinafter referred to as the operator.

- 1. Statutes and Regulations.—This mining plan approval is issued pursuant to Federal lease NM-28093; the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.); and in the case of acquired lands, the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351 et seq.). This mining plan approval is subject to all applicable regulations of the Secretary of the Interior which are now or hereafter in force; and all such regulations are made a part hereof. The operator shall comply with the provisions of the Water Pollution Control Act (33 U.S.C. 1151 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and other applicable Federal laws.**
- 2. This document approves the mining plan modification for Federal lease NM-28093 at the San Juan Mine and authorizes coal development or mining operations on the Federal leases within the area of mining plan approval. This authorization is not valid beyond the South ½ of Section 13; the South ½ of Section 14; all of Sections 23, 24, 25 and 26; and Lots 1,2,3,4, North ½ South ½ (All) of Section 35; Township 30 North, Range 15 West of the New Mexico P.M. These lands encompass 3,856.6 acres and are found on the USGS 7.5 minute Waterflow/Youngs Lake Quadrangle maps of San Juan County, New Mexico, and as shown on the map appended hereto as Attachment A.**
- 3. The operator shall conduct coal development and mining operations only as described in the complete permit application package, and approved by the New Mexico Mining and Minerals Division, New Mexico Energy, Minerals and Natural Resources Department, except as otherwise directed in the conditions of this mining plan approval.**

Mining Plan Approval Document No. NM-0006

Page 2 of 2

4. The operator shall comply with the terms and conditions of the lease, this mining plan approval, and the requirements of the New Mexico Permit No. 99-01 issued under the New Mexico State program, approved pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).
5. This mining plan approval shall be binding on any person conducting coal development or mining operations under the approved mining plan and shall remain in effect until superseded, canceled, or withdrawn.
6. If during mining operations unidentified prehistoric or historic resources are discovered, the operator shall ensure that the resources are not disturbed and shall notify New Mexico Mining and Minerals Division, New Mexico Energy, Minerals and Natural Resources Department and the Office of Surface Mining Reclamation and Enforcement (OSM). The operator shall take such actions as are required by New Mexico Mining and Minerals Division, New Mexico Energy, Minerals and Natural Resources Department in coordination with OSM.
7. The Secretary retains jurisdiction to modify or cancel this approval as required, on the basis of further consultation with the U.S. Fish and Wildlife Service pursuant to section 7 of the Endangered Species Act, as amended, 16 U.S.C. §§ 1531 *et seq.*


Assistant Secretary
Land and Minerals Management

JAN 11 2001

Date

BHP Billiton

August 31, 2001

Ms. Angela Trujillo
Bureau of Land Management, NM State Office
1474 Rodeo Road
Santa Fe, NM 87502-0115

RE: Coal Exploration License Application (Serial #NMNM 107171)

Dear Ms. Trujillo:


As per your request, enclosed is a revised version of San Juan Coal Company's (SJCC) application for the Twin Peaks Extension Area coal exploration license. The following changes have been made to address your concerns:

1. Page numbers have been inserted in the revised application;
2. The acreage figure shown on page 2 (Legal Description) of the application has been changed to 5,802.15 acres; and
3. In order to address a concern raised by the NM Mining & Minerals Division staff, page 5 (Road Work) has been revised to include a description of measures to be taken to reclaim drill pads and new roads.

As we understand, upon receipt of this information, the Notice of Invitation will be developed and sent to SJCC for publication in the local newspaper, The Farmington Daily Times. Pursuant to 43 CFR 3410.2-1(1), the notice will be published for two consecutive weeks. In addition, we are hopeful that the on-site with the BLM Farmington District Office staff can be scheduled in the near future and we can initiate the NEPA process (i.e., environmental assessment) and discuss the results of the cultural resources survey of the project area that has recently been completed.

Should you have any further questions or comments, please feel free to contact me at 505-598-2107.

Yours sincerely,


Lynn Woerner
Technical Services Coordinator
Projects Development Group

EXHIBIT

SJCC-9

Enc: Revised Coal Exploration License Application – Serial # NMNM 107171
CC: With Attachments
John Mercier
Rick Trost
Jim O'Hara – NM Mining & Minerals Division

**EXPLORATION AND RECLAMATION PLAN
FOR SAN JUAN COAL COMPANY
"Twin Peak Extension Area"**

This plan is submitted by **BHP Billiton - San Juan Coal Company (SJCC)** in a format that follows the provisions of **43 CFR SubPart 3482**. The purpose of this program is to collect geologic, geotechnical, and coal quality data and sample coal bed gasses to help analyze and define the underground mining potential of the proposed area here called the "Twin Peaks Extension Area". A total of sixteen drill sites are proposed for this Exploration Plan. With two exceptions, the proposed drill sites will be located immediately off existing roads.

3482.1(a) (3) Exploration Plans shall contain all of the following:

3482.1(a) (3) (i) The name, address and telephone number of the applicant, and, if applicable, the operator/lessee of record.

San Juan Coal Company
P.O. Box 561
Waterflow, NM 87421
(505) 598-2000

3482.1(a) (3) (ii) The name, address and telephone number of the applicant who will be representation and be responsible for conducting the exploration.

John Mercier
San Juan Coal Company
P.O. Box 561
Waterflow, NM 87421
(505) 598-2239

3482.1 (a) (3) (iii) A narrative description of the proposed exploration a, cross-referenced to the map required under paragraph (a) (3) (v111) of this section, including applicable federal lease and license serial numbers; surface topography; geologic, surface water, and other physical features; vegetation cover; endangered or threatened species listed pursuant to the endangered Species Act of 1973 (16 U.S.C. 1531, et seq.); districts, sites, buildings, structures, or objects listed on, or eligible for listing on, the National Register of

Historic Places; and known cultural or archeological resources located within the proposed exploration area.

Legal Description

Legal descriptions of the area of interest for this Exploration Plan are as follows:

**All of
Sections 9, 10, 15, 21, 22, 27, 28, 33, and 34
Township 30 North, Range 14 West N.M.P.M.
Containing 5802.15 acres, more or less.**

The attached Surface Ownership Map shows the location of lands controlled by various owners (Federal and State). Pre-program oil and gas roads are shown in blue and proposed 2001 –2002 roads or road extensions created in this Plan are shown in red.

Topography

Topography in the area to be explored is quite varied, ranging from broad alluvial fans and flats to the south with salt desert scrub vegetation to profusely incised “badlands” mounds and drainages in the north half of the area. The prominent sandstone-capped Pinon Mesa rises sharply above the generally barren badlands on the northeast side of the project area. Elevations range from around 5300 feet to the south to 5700 feet in the north to slightly over 6100 feet on Pinon Mesa. Dry washes and arroyos drain the area from northeast to the southwest.

Geology

The Upper Cretaceous aged units underlying the exploration area, in ascending order, are the littoral marine Pictured Cliffs Sandstone, the fluvial and paludal Fruitland Formation, the fluvial Kirtland Shale and the resistant overlying Farmington Sandstone.

Two (2) potentially mineable coal seams are located in the lower part of the Fruitland Formation which are the targets for this program. The No. 8 Seam and the overlying No. 9 Seam have an interburden of 80 to 100 feet and lie under an overburden ranging from 800 to 1400 feet.. The strata in the exploration area strike very generally north-south and dip gently to the east about one to three degrees. Undulations caused by depositional compaction are suspected to locally cause an increase in seam dip.

Structural discontinuities caused by regional stresses forming the San Juan Basin and local differential compaction has been observed in adjacent surface pits and are suspected to be present in the area to be explored. General fracture patterns trend roughly N 55 W and N 45 E.

Exploration activities will focus on the collection of geological and geotechnical data including lithological logging detail, geophysical logs, geotechnical descriptions and discontinuity observations, methane and hydrogen sulphide measurements, strength testing, and coal quality analyses. This information will help in our analyses of the underground mining potential of the Twin Peaks Extension Area.

Surface Water and Other Physical Features

The proposed coal exploration area is located within the Upper Colorado River Basin and all surface water flows towards the San Juan River which is located south of the exploration area. Major drainages in the area are the Coolidge Arroyo, Stevens Arroyo, and Hutch Canyon. The U.S. Geological Survey classifies these drainages as intermittent streams. Occasional stock tanks and stock ponds provide uncertain water for stock and wildlife in the area. Surface waters dry up during periods of drought.

National Register of Historical Places Listing

No listed district, site, building, structure, or residential development or other permanent structures are to be found in the area under consideration. Surface visits show that there are at least 20 oil and gas wells located in the area. There are oil and gas well sites scattered across the project area with an extensive development of new roads. SJCC is actively surveying in new roads and well sites.

Vegetation

Vegetation in the proposed coal exploration area is characteristic of the Great Basin flora of Utah, Nevada, western Colorado, northeast Arizona, and northwest New Mexico. The area is classified as part of the Salt Desert Shrub Vegetation Type that contains a large number of salt-adapted species.

Archaeology Resource Inventory

Archaeological surveys will be completed in the proposed exploration area covering proposed drill sites and other potentially impacted areas. Surveys and resultant reports will be completed in the near future. If significant sites are identified, the areas will be either mitigated or avoided.

Other Physical Features

No significant physical features will be affected by proposed drilling activities. All gates in the exploration area will be left as found.

Threatened and Endangered Species

While the proposed exploration area supports a variety of terrestrial vertebrates, birds, reptiles, and amphibians, there are no known critical habitats for any threatened and endangered species identified within this area. Ground-based Raptor surveys are conducted annually on the adjacent (to the immediate west) Deep Lease Extension. All exploration activities for this project should be complete by mid January 2002.

The Bureau of Land Management, the New Mexico Department of Game and Fish, and the U. S. Fish and Wildlife Service will be notified if any information comes to light indicating endangered or threatened species inhabiting the area.

3482.1 (a) (3) (iv) A narrative description of the methods to be used to conduct coal exploration, reclamation, and abandonment of operations including, but not limited to-

Coal exploration, reclamation, and abandonment.

A total of sixteen drill sites on Federal lands are proposed for this 2001 – 2002 Exploration Plan. These proposed holes will also be augmented by two exploration holes sited in State Section 16, T 30 N, R 14 W. The proposed holes are located to gather samples and seam data in an area of proposed future underground development.

All proposed sites will be constructed as small a practical to accommodate the drill rigs and associated equipment. Existing roads will be used to access sites wherever possible. One new road approximately 2500 feet long is proposed in Section 15 and a second site will be accessed by a 200 foot long new road in Section 27.

Unnecessary off-road vehicle use will be restricted to minimize disturbance. SJCC has in place contingency plans that include measures to clean up accidental spillage of detrimental or toxic materials such as gasoline, oils, and chemicals.

Open fires will not be allowed in the exploration area. SJCC will take reasonable measures to minimize fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife and other natural resources, air and noise pollution, adverse impacts to the social and infrastructure systems of local communities, and hazards to public health and safety.

Type of Equipment

The proposed exploration holes will be rotary-drilled (GD 1500 or similar) utilizing air/mist circulation media. Select zones will be conventionally cored or drilled using continuous core drill rigs (Longyear 44 or similar). Both drill rig types should be capable of reaching 1500 feet under typical conditions.

All rigs will be truck mounted and will be supported by a pipe truck, water truck, and a four-wheel drive pickup with an auxiliary fuel tank. Drill pads will be constructed using a small dozer (D-6 or similar) where significant leveling is necessary while a rubber-tired backhoe will be used for the excavation of mud pits, reclamation of pits and pad, and regular operations support.

Minor touchup of existing roads may require the use of the dozer or backhoe in a few places. Construction of the road to proposed site TP12 will require extensive use of the dozer.

Road Work

As noted above, existing roads will be utilized for this project whenever possible. Approximately 2500 feet of new road will have to be constructed to access site TP12 from an existing two-wheel track in Section 15. This road will be bladed across barren rolling surface of the lower Kirkland Shale. The proposed road will be constructed about ten feet wide with small berms on each side.

A second new road has been flagged to access proposed hole TP05 in Section 27. The road will originate off an existing road and cross about 200 feet of moderately sloping hillside.

Existing roads will be touched up and/or cleared where necessary to allow for equipment access. The following activities that will take place to reclaim all drill pads and constructed road:

- (1) Recontour and scarify surface of disturbed area;
- (2) Prepare seedbed by disking of surface prior to seeding;
- (3) Broadcast seed using the seed mixture described in Table 1 of the BLM coal exploration license application; and
- (4) Distribute and crimp native hay or straw mulch on seeded surface.

In addition, an earthen berm will be constructed at the reclaimed road entrances to prevent future vehicular access.

3482.1 (a) (3) (iv) (B) Excavated Earth or Debris Disposal Activities

As in the past, disturbance on the proposed drill sites will be kept to a minimum. If leveling of the site is necessary, topsoil will be salvaged and placed on the up-slope side of the pad for re-distribution during site reclamation. Erosion will be controlled by interior drainage, berms, straw bales, or silt fences. Stockpiled soil will be protected from erosion. In general, site disturbance will be restricted to a 100-foot square area at each proposed drill site.

Mud pit disturbance will be kept to a minimum. The mud pit will be located away from natural depressions and watercourses in a manner that prevents natural runoff from entering the pit. The mud pit will be constructed with a capacity adequate for the anticipated volume of effluent. Estimated mud pit size is six (6) feet deep by six (6) feet wide by ten (10) feet long.

Topsoil will be removed and stockpiled prior to mud pit excavation to prevent contamination and minimize erosion. Until such time as it is redistributed prior to seeding. All drilling mud and excess cutting will be buried in the mud pit.

Mud pits will be fenced while they are active and until final backfilling to protect livestock and wildlife. No oils, greases, or solid wastes shall be disposed of in the mud pits. Absorbent pads will be utilized to collect leaking oils and disposed as off-site solid waste. When sufficiently dried, mud pits will be backfilled and compacted with the use of a backhoe or dozer. Sites will be re-contoured, topsoil redistributed and prepared for seeding by the drill contractor.

All refuse (cans, food, barrels, paper, plastic, oil bottles, ashes, cigarette butts, etc.) will be disposed of in an approved solid waste disposal site and not in the exploration area.

Disking and seeding of the site will be done by SJCC using the seed mix shown on the attached table.

Table 1
Dryland Seed Mix

<u>Species Name</u>	<u>Number pure live seeds/lb</u>	<u>Pounds pure live seeds/acre</u>	<u>Number seeds sq. foot</u>
Western Wheatgrass (<i>Agropyron smithii</i>)	110,000	1.6	4.0
Blue Grama (<i>Boutelousa gracilis</i>)	712,000	0.3	5.2
Galleta (<i>Hilaria jamesii</i>)	470,000	0.3	3.5
Alkali Sacaton (<i>Sporobolus airoides</i>)	1,758,000	0.3	12.4
Sand Dropseed (<i>Sporobolus cryptandrus</i>)	5,298,000	0.1	7.8
New Mexican Feathergrass (<i>Stipa neomexicana</i>)	115,000	1.6	4.2
Indian Ricegrass (<i>Oryzopsis hymenoides</i>)	141,000	1.6	5.2
Fourwing Saltbush	52,000	1.6	1.9

(Atriplex canescens)			
Shadscale	64,900	1.6	2.4
(Atriplex confertifolia)			
Winterfat	56,700	1.6	2.1
(Ceratooides lanata)			
Blue Flax	293,000	0.2	1.1
(Linum lewisii)			
Rocky Mt. Penstemon	592,000	0.2	2.2
(Penstemon strictus)			
Prairie Coneflower	1,230,000	<u>0.03</u>	<u>0.9</u>
Total		11.03	52.9

3482.1 (a) (3) (iv) (C) The proposed method for plugging of drill holes

All holes will be grouted from bottom to the surface by pumping Portland cement slurry in lifts. All completed holes will undergo a final survey to accurately record the exact location of the drill hole collar prior to final reclamation.

3482.1 (a) (3) (iv) (D) Estimated size and depth of drill holes, trenches and test pits

The estimated size of the drill holes will range from a maximum 7 7/8 inches for surface casing to 5 1/8 inches for rotary drilling in the main hole. Cored zones of the planned holes will be from 3.8 inches to 3.0 inches (HQ to NQ). Detail on the planned holes are shown on the following table.

Table 2
Proposed Hole Detail

<u>Proposed Hole Name</u>	<u>Tentative Location</u>	<u>Collar Elevation</u>	<u>Estimated Depth (ft)</u>
TP01	361157E 2100398N	5456	1025
TP02	358068E 2100771N	5516	1045
TP03	362565E 2102626N	5464	1075
TP04	359670E 2103295N	5535	1100
TP05	361791E 2105522N	5530	1125
TP06	357933E 2106117N	5563	1145
TP07	360010E 2108570N	5560	1250
TP08	363056E 2108356N	5553	1200
TP09	361608E 2111146N	5622	1245
TP10	358863E 2112090N	5640	1245

TP11	364513E 2111940N	5664	1305
TP12	365442E 2114074N	5734	1415
TP15	362238E 2105709N	5610	1265
TP16	357187E 2121127N	5521	1165
TP17	360201E 2121369N	5587	1262
TP18	363086E 2115580N	5775	1465

No trenches or test pits are planned.

3482.1 (a) (3) (iv) (E) Plans for transfer and modification of exploration drill holes for surveillance, monitoring or water wells

None of the proposed exploration holes are planned to be utilized for any purpose other than exploratory.

3482.1 (a) (3) (v) Estimated Timetable for Completion of Each Phase of Exploration, Drilling and Reclamation

The following is the estimated timetable for the proposed exploration activities. Depending on project progress, some of the holes may be drilled after the first of next year (2002). Not all holes may be drilled.

Table 3
Timetable for Proposed 2001 - 2002 Exploration Activities

Timing	Nov	Dec		Jan	Feb	Mar	
Road Work	x x	x x x		x x x x	x x		Prepare roads and sites
Drilling	x	x x x		x x x x	x x x x	x	@ 4-5 days/hole, sampling, logging
Initial Reclamation		x x		x x x x	x x x x	x x	Dry pits, recontour sites

("x" stands for weeks)

Reclamation of sites includes plugging of holes, grading of ruts and other disturbances in the vicinity of drill sites and backfilling of mud pits. Seeding will take place between July and October to take advantage of seasonable rains.

3482.1 (a) (3) (v) The estimated amounts of coal to be removed during exploration, a description of the method to be used to determine those amounts, and the proposed use of the coal removed.

This proposed exploration plan calls for up to sixteen rotary/core drill holes. It is assumed an estimated total of 20 feet of coal will be encountered (cored) in each hole.

Coal Seam No. 8 will average 15 feet thick and Seam No. 9 is estimated to average about 5 feet thick. Recovered core will be 3 inches in diameter.

Calculation for lbs. of coal per hole based on the equation: $\pi r^2 L \times \text{coal density} = \text{weight of coal}$.

$$(.08^2 \text{ ft.}) \times \pi \times 20 \text{ ft.} = (\text{est. Cubic ft. Coal/hole})$$

$$\times 88 \text{ lbs./cu. Ft.} = \text{lbs. Coal / hole}$$

Total coal recovered from 1 core hole = 35 lbs.

It is estimated that a total of **570 pounds of coal** or less will be disturbed or removed during the expected scope of the program. The core sampled will be described, geotechnically logged, desorbed, and analyzed for quality and/or perhaps tested for strength.

3482.1 (a) (3) (vii) A description of the measures to be used during exploration for Federal coal to comply with the performance standards for exploration (3481.1 (a)) and applicable requirements of 30 CFR 815.15 or an approved state program.

3484.1 (a) (2) The operator/lessee, if required by the authorized officer, shall set and cement casing in the hole and install suitable blowout prevention equipment when drilling on lands valuable or prospectively valuable for oil, gas, or geothermal resources.

If required by the authorized officer, casing will be set and cemented in the hole and suitable blowout prevention equipment will be installed. *Previous experience drilling in the immediate mine area esp. from 1994 to present has not shown this to be necessary in un-mined ground.*

3484.1 (a) (3) All exploration drillholes must be capped with at least 5 feet of cement and plugged with a permanent plugging material that is unaffected by water and hydrocarbon gases and will prevent the migration of gases and water in the drill hole under normal hole pressures. For exploration holes drilled deeper than stripping limits the operator/lessee, using cement or other suitable plugging material approved by the authorized officer shall plug the hole through the thickness of the coal bed(s) or mineral deposit(s) and through aquifers for a distance of at least 50 feet above or below the coal bed(s) or mineral deposit(s) and aquifers, or to the bottom of the drillhole. A lesser cap or plug may be approved by the authorized officer. Exploration activities shall be managed to prevent water pollution and mixing of ground and surface waters and ensure the safety of people, livestock, and wildlife.

3484.1 (a) (3)

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As noted above in 3482.1(a) (3) (iv) (C), this stipulation will be complied with. Adequate precautionary measures (such as berms, bales, and/or silt fences) as needed to prevent the escape of drilling materials and fluids into stream drainages will be incorporated into the site design. The potential for contamination of surface waters will be minimized by the construction of mud pits of sufficient size to contain all effluent drilling materials and the placement of silt fencing. If mud pits are not adequate to handle all drilling fluids and cuttings, additional pits will be constructed or pit fluids pumped and hauled away.

In accordance with the revised stipulations of 43 CFR 3482.2 (b), all coal exploration drill holes will be: 1.) Cemented from the total depth of the hole to the surface and, 2.) The surface and the intermediate casing (if any) will be fully pressure grouted in the annulus from the bottom of the string to the surface. These measures will be taken to prevent intermixing of ground water. When the well is no longer needed, it will be plugged with portland cement and sealed as noted above in 3482.1 (a)(3)(iv)(C).

3484.1(a) (4)

The operator/lessee shall retain for one (1) year, unless a shorter time period is authorized by the authorized officer, all drill and geophysical logs and shall make such logs available for inspection or analysis by the authorized officer, if requested. The authorized officer, at his discretion, may require the operator/lessee to retain representative samples of drill cores for one (1) year. Confidentiality of such information will be accorded pursuant to the provisions of 3481.3 of this title.

Drill and geophysical logs, as well as remaining representative core samples obtained from the exploration program, will be available for inspection or analysis by the authorized officer for one year. Typically, all collected data including seam depth, thickness, quality analyses, geophysical logs, structure, geotechnical drill core logs, strength test results, etc. will be copied and transferred to the appropriate personnel at the

BLM offices for review and confidential storage, pursuant to 43 CFR 3485.1. Analyses and estimates of volumetrics of collected gasses will be made available to the BLM.

- 3484.1 (a) (5) The operator/lessee may utilize exploration drill holes as surveillance wells for the purpose of monitoring the effects of subsequent operations on the quantity, quality, or pressure of groundwater or mine gases only with the written approval of the authorized officer, in consultation with the regulatory authority. The operator/lessee may convert exploration drill holes to water wells only after approval of the operator/lessee's written request by the authorized officer and the surface owner or authorized officer in consultation with the regulatory authority. All such approvals shall be accompanied by a corresponding transfer of responsibility for and liability including eventual plugging, reclamation, and abandonment. Nothing in this paragraph shall supercede or affect the applicability of any state law requirements for such a transfer, conversion, or utilization a supply for domestic consumption.

None of the proposed holes are slated to be completed as water monitor wells.

- 3482.1 (a) (3) (viii) A map at a scale of 1:24,000 or larger showing the areas of land to be affected by the proposed exploration and reclamation. The map shall show existing roads, occupied dwellings, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; applicable federal lease and license boundaries; the location of land excavating to be conducted; coal exploratory holes to be drilled or altered; earth or debris-disposal areas; existing bodies of surface water; and topographic and drainage features.

The Regional Surface Ownership Map (Map 1) containing proposed drill sites for the proposed program and access routes is attached to this application. This map is at a scale of 1:12,000 (1"= 1000') and contains the requested information (proposed drill hole locations, boundaries, access routes, etc.).

- 3482.1 (a) (3) (ix) The name and address of the owner of record of the surface land, if other than the United States. If the surface is owned by a person other than the applicant or if the federal coal is leased to a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation.

All lands on which the proposed drill pads and roads will be constructed for execution of this exploration plan are owned by the BLM.

3484.1 (a) (5)

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3482.1 (a) (3) (ix)

The name and address of the owner of record of the surface land, if other than the United States. If the surface is owned by a person other than the applicant or if the federal coal is leased to a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation.

All lands on which the proposed drill pads and roads will be constructed for execution this Exploration Plan are owned by the BLM.

3482.1 (a) (3) (x)

Such other data as may be required by the authorized officer.

Other data that may be required will be made available as soon as possible upon the request of the BLM.

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