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FILED

JUL 28 1983

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

Terri A. Lorenson, Adm. Aide  
Environmental Quality Council

IN THE MATTER OF )  
MINING PERMIT REQUIREMENTS )  
FOR THE ETSI PIPELINE )  
PROJECT'S PROPOSED THUNDER )  
BASIN COAL PREPARATION PLANT )

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STIPULATED SETTLEMENT  
AND  
MOTION TO DISMISS

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THIS MATTER is based upon an April 28, 1983 Petition and Request for Hearing by the ETSI Pipeline Project, a Joint Venture ("ETSI"), to contest a decision by the Acting Administrator of the Department of Environmental Quality, Land Quality Division (DEQ/LQD). That decision being the conclusion that the silos, conveyor system and preparation plants associated with the proposed construction of the ETSI coal slurry pipeline constitutes activities incidental to a "surface coal mining operation" per the definition provided at W.S. 35-11-103(e)(xx). ETSI and the DEQ/LQD are each desirous of resolving this matter by mutual agreement without the necessity of a hearing. Therefore, counsel for ETSI and DEQ/LQD hereby move for dismissal of the Petition and Request for Hearing and agree to be bound by the stipulations set forth below:

STIPULATION

1. Prior to construction, ETSI shall submit an application to the Land Quality Division for a mining permit and license to mine, to include conveyor systems transporting coal from mine silos, and the on-site coal storage silos constructed by ETSI.

2. The facilities described above are as planned considered to be support facilities and constitute "surface coal mining operations" within the meaning of W.S. 35-11-103(e)(xx).

3. The remaining facilities constructed and operated by ETSI at the preparation plant sites are not considered to be in connection with a "surface coal mining operation," as defined by W.S. 35-11-103(e)(xx). This decision is based upon the following facts as provided to DEQ/LQD by ETSI:

a. ETSI proposes to construct and operate an interstate coal slurry pipeline system for the purpose of providing coal slurry transportation services for an annual volume of 37.4 million short tons of surface-dry coal. This integrated service includes coal preparation, pumping, and dewatering for utility and industrial coal users in Arkansas, Oklahoma, and Texas. The facilities to be located in Wyoming are shown on the system location map which is attached and incorporated by reference as Addendum A.

b. The coal for which ETSI will provide its service is produced from four mines in the Powder River Basin, including the Jacobs Ranch and Black Thunder Mines located in Campbell County, Wyoming. Other producing mines are the North Antelope and Rawhide Mines. ETSI has not entered into, and does not propose to enter into, any contract with a mine for the purchase, processing or shipment of coal.

c. The coal is being produced at the Jacobs Ranch and Black Thunder Mines under long-term fuel supply contracts with existing utilities and is being transported by railroad unit trains.

d. ETSI proposed to offer its services to several of these utilities now shipping coal by railroad unit train.

e. ETSI has no contractual agreement with utilities to supply coal. ETSI intends to enter into separate transportation agreements with each utility shipper using the pipeline. ETSI will accept the utility shipper's coal, pre-

pare it for slurring, transport the coal out of Wyoming to discharge points with dewatering facilities in Oklahoma, Arkansas and Texas, dewater the coal, and deliver it dry to the utility shipper's storage areas. ETSI will not take title to the coal. The shipper's obligations will be to supply coal to ETSI, to receive the dewatered coal on delivery, and to pay the tariff.

f. The service which ETSI provides through that part of its coal slurry pipeline system located in Wyoming includes coal slurry preparation, and pumping and transportation to the Wyoming border.

g. Coal will be conveyed from the mine silos at the Jacobs Ranch and Black Thunder Mines to ETSI's Thunder Basin Coal Slurry Preparation Plant. Coal slurry transportation begins with impact milling followed by the addition of water and further grinding to a maximum particle size of 14 mesh. Water addition is controlled to form a mixture that is approximately 50 percent dry coal by weight and the resulting slurry is stored in a tank with mechanical agitators to prevent settling.

h. Two coal slurry preparation plants will be located at the Antelope and Rawhide mines, respectively, and serve only those mines. The Thunder Basin Coal Slurry Preparation Plant will also receive coal slurry prepared at Antelope and Rawhide coal slurry preparation plants for temporary holding at the Thunder Basin tank farm where the main coal slurry pipeline will originate.

i. The slurry from the agitated tanks is transferred into a buried steel pipe and propelled by reciprocating positive displacement pumps located in stations at intervals of approximately 50 to 100 miles.

j. The mainline will proceed through Wyoming, Colorado, and Kansas to receiving terminals in Oklahoma and Arkansas. Here the coal will be separated from the transport water at dewatering plants servicing Grand River Dam Authority (GRDA) at Pryor, Oklahoma; Oklahoma Gas & Electric (OG&E) at

Sooner and Muskogee, Oklahoma; Arkansas Power and Light (AP&L) at White Bluff and Independence, Arkansas; and a barge terminal to be constructed at Cypress Bend, Arkansas. The barge terminal will enable ETSI to ship coal to additional customers by rivers and canal. The pipeline route and the location of the receiving terminals will, of course, change if ETSI contracts with other utilities.

k. All mines providing coal to the ETSI system are presently operating under valid mining permits and mining licenses.

l. Coal produced at the Jacobs Ranch and Black Thunder Mines is currently being loaded from mine silos for rail transportation. Railroad loading and transportation facilities within the mine permit area are included within mining permits issued for the mines.

m. The Thunder Basin Coal Slurry Preparation Plant will be located on land owned by ETSI which is not part of a mine permit area with fenced boundaries and separate means of access.

n. ETSI processes and prepares the coal only in that it crushes and grinds the coal and produces a water and coal mixture. ETSI's facilities, including its preparation plants, do not remove or separate impurities from coal.

o. The surface disturbance from ETSI's activities at the coal slurry pipeline plant site only involve construction site preparation for plant silos, mills, conveyors, storage tanks, slurry ponds, and access roads. This will affect approximately 120 acres at the site of the Thunder Basin Coal Slurry Preparation Plant.

p. The United States Department of the Interior, Bureau of Land Management (BLM), prepared a comprehensive environmental impact statement (EIS) on the ETSI Pipeline Project. The EIS project description provides that upon termination, all facilities will be removed and the surface reclaimed.

4. Prior to constructing any coal slurry preparation

plants, ETSI will prepare an addendum to the February 1982 Operation Plan submitted to the Bureau of Land Management which describes construction and reclamation standards for the construction and operation of the project.

5. This addendum will be prepared in cooperation with the Land Quality Division and will provide for the reclamation of coal slurry preparation plant sites consistent with the performance standards which apply to support facilities regulated as surface coal mining operations. Particular attention shall be paid to those plans for surface gradient, revegetation, handling and replacement of topsoil and protection of surface and underground waters.

6. This stipulation is entered into on the understanding by DEQ/LQD that ETSI will construct the three preparation plant facilities (Thunder Basin, Antelope and Rawhide) consistent with those plans presently contemplated by ETSI and submitted to DEQ/LQD. Those plans may be changed without affecting this stipulation so long as such changes to any portion of the system does not bring that portion of the system in connection with any surface coal mine operation.

7. DEQ/LQD does not hereby waive its right to assert jurisdiction over any preparation plants which in character or operation would differ from those proposed by ETSI for the coal slurry pipeline system. DEQ/LQD will consider any of the following factors in determining whether such a facility is in connection with a mine. Such factors include, but are not limited to:

- a. Facilities which receive a significant portion of their coal from a mine;
- b. Facilities which receive a significant portion of the output from a mine;

c. Facilities which have an economic relationship with a mine;

d. Operational integration with a mine;

e. The removing of impurities from coal;

f. The generating of on-site wastes by the operation.

8. The reclamation contemplated by the addendum to the February 1982 Operation Plan referred to in paragraphs four (4) and five (5) shall benefit the State of Wyoming by insuring reclamation consistent with State standards. Any failure to follow the provisions of said addendum will create a cause of action in favor of the State of Wyoming, enforceable in the courts of the State of Wyoming.

THEREFORE, ETSI and the Land Quality Division relying on the aforesated stipulation, respectfully move for the dismissal of the above-captioned matter.

Submitted this 20<sup>th</sup> day of July, 1983.



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