STATE OF WYOMING

BEFORE THE INDUSTRIAL SITING COUNCIL

000184

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In the Matter of

ATLANTIC RICHFIELD COMPANY

Docket No. WISA-78-1

December 15, 1978

Permit Application for the
Coal Creek Mine,
Campbell County

APPEARANCES

Messrs. William T. Schwartz, Casper, Wyoming and Russell S. Jones, Denver, Colorado, for the Applicant, Atlantic Richfield Company.

Mayor Michael B. Enzi and Mr. Joseph Racine, Gillette, Wyoming, for the City of Gillette.

Dr. Blaine E. Dinger, Cheyenne, Wyoming for the Administrative Staff of the Office of Industrial Siting Administration.

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INITIAL DECISION

I. INTRODUCTION

1. This Initial Decision concerns an application by Atlantic Richfield Company (applicant), filed on March 27, 1978, with the Office of Industrial Siting Administration (the Office) in accordance with the Wyoming Industrial Development Information and Siting Act (W.S. 35-12-101 through 121), for a permit to construct the Coal Creek Mine and Facilities appurtenant thereto (the facility) in Campbell County, Wyoming. The one hundred five million, four hundred thousand ($105,400,000.00) dollar estimated construction cost of the proposed mine and appurtenant facilities exceeds the statutory criterion at W.S. 35-12-102(a)(iii)(B), as adjusted per applicable cost index, thereby requiring that an industrial siting permit application be filed, and a permit issued by the Council prior to commencement of construction of the facility.

2. On April 17, 1978, the Office issued a "Notice of Application for Permit to Construct Coal Creek Mine, Campbell County". The Notice was published in the Gillette News-Record and the Casper Star-Tribune on April 21 and 24, 1978. The Notice summarized the application as filed, specifying the projected construction schedule and manpower projections, as well as other details attendant to the construction of the facility.

3. On April 17, 1978, the Office served the application on the following: County Clerk of Campbell County, Mayor of the City of Gillette, Chairman of the Board of Campbell County Commissioners, Superintendent of School District Number 1-Gillette, Gillette-Campbell Fire Protection Joint Powers Board, and Chief Librarian of the George Amos Memorial Library, Gillette.

4. On April 25, 1978, the staff submitted questions to the applicant respecting clarification of certain aspects of the application. The applicant provided a written response to staff questions on May 23, 1978.

5. From May 9-12, 1978, a site inspection tour was conducted by the staff. The inspection included a tour of the applicant's Black Thunder Mine and the newly constructed town of Wright, Wyoming. Several meetings between local governmental officials, the applicant's representatives, and the staff were held in the City of Gillette. On May 16, 1978, the staff environmental specialist was provided a detailed tour of the Coal Creek lease area in the company of applicant's representatives.

6. On June 27, 1978, the applicant submitted a "Supplement to the Permit Application for the Coal Creek Mine, Campbell County" which detailed changes in the proposed coal storage facilities, construction schedules, and construction-period personnel requirements.

7. On June 29, 1978, the State Engineer completed a review of the "Water Supply and Water Yield Analysis" prepared and submitted by the applicant pursuant to W.S. 35-12-107. Notice of the State Engineer's preliminary opinion that groundwater is available to meet the needs of the proposed facility was published in the Gillette News-Record July 5, 12, and 19, 1978.

8. On June 30, 1978, the Office issued a "Notice of Supplement to Application" which was served on the Mayor of Gillette, the County Clerk of Campbell County, the Chairman of the Board of Campbell County Commissioners, the Superintendent of School District Number 1-Gillette, the Gillette-Campbell Fire Protection Joint Powers Board, and the Chief Librarian of the George Amos Memorial Library, Gillette. The Notice was published in the Gillette News-Record on July 7, 1978, and in the Casper Star-Tribune on July 5, 1978.

9. On July 18, 1978, the Office issued a "Notice of Prehearing Conference Respecting Application for Authority to Construct a Surface Coal Mine ("Coal Creek Mine"), Campbell County, Wy.", to convene at 1:30 p.m., July 31, 1978, in the basement auditorium of the Hathaway State Office Building, Capitol Ave., Cheyenne, Wyoming. Public notice of the pre-hearing conference was issued in a "Notice of Industrial Siting Council Meeting" published in the Gillette News-Record and the Casper Star-Tribune on July 24, 1978.

10. On July 28, 1978, the City of Gillette (Gillette) submitted a letter (Gillette letter) notifying the Council of its intent to participate in the public hearing on the application, and setting forth issues which the City would address at the hearing, and identifying certain aspects of the application which were of concern to the City.

11. On July 31, 1978, pursuant to appropriate notice by the Industrial Siting Council (the Council), a pre-hearing conference was held in Cheyenne, Wyoming. At the conference, actions were taken concerning delineation of key issues and identification of witnesses and exhibits.

12. On August 2, 1978, a "Notice of Public Hearing" was issued by the Office, to convene on August 23, 1978, at the Campbell County High School, Gillette, Wyoming. Notice was served on all parties and was published in the Gillette News-Record and the Casper Star Tribune on August 8, 1978.

13. On August 8, 1978, the Council issued a "Pre-hearing Order" delineating the issues to be addressed by the parties in testimony and evidence presented at the evidentiary hearing.

14. By Memorandum (George L. Christopulous to Wyoming Industrial Siting Council and Wyoming Public Service Commission) dated August 17, 1978 the State Engineer rendered his final opinion concerning applicant's "Water Supply and Water Yield Analysis," finding that the conclusions stated in the preliminary opinion of June 29, 1978 were valid, and that there is available groundwater to meet the proposed needs of the facility described in the applicant's "Analysis".

15. An evidentiary hearing was conducted August 23-24, 1978 at Gillette, Wyoming. The proceeding included a site visit to Wright, Wyoming, and the Thunder Basin Coal Company Black Thunder Mine, the latter facility being essentially identical in most respects to the proposed facility.

16. Written comments by the following Wyoming state agencies were admitted into evidence:

Wyoming Highway Department
Game and Fish Department
Department of Environmental Quality
Wyoming Department of Agriculture
Department of Economic Planning and Development
Department of Education
Energy Conservation Office
Wyoming Geological Survey
Department of Health and Social Services
Wyoming Recreation Commission
University of Wyoming
Wyoming State Library

17. At the hearing the applicant offered and the Council admitted into evidence, applicant's Exhibit Nos. A-V.

18. At the hearing the staff offered and the Council admitted into evidence, the "Staff Review".

19. At the hearing the Council admitted into evidence, Powder River Basin Resources Council Exhibit A.

20. On August 29, 1978, the Council issued a "Notice of Preliminary Decision and Request for Submission of Proposed Findings and Conclusions, and Recommended Permit Conditions" to all parties to the proceedings.

21. On September 5, 1978, the applicant filed a "Response to Limited Appearance Statement of Powder River Basin Resources Council" with the Office.

22. The Council is required, pursuant to the Notice of Hearing and in accordance with terms and provisions of W.S. 35-12-109(c) and (e) as embodied within Chapter I, Section 6., Industrial Development Information and Siting Rules and Regulations, to determine:

a. Whether in accordance with Section 6.a. the applicant has demonstrated that the proposed facility will comply with all applicable local, state, and federal law throughout each phase of planning, construction, and operation;

b. Whether in accordance with Section 6.b. the applicant has demonstrated that the proposed facility will not pose a threat of serious injury to the environment or the social and economic condition of present or expected inhabitants within the area of site influence;

c. Whether in accordance with Section 6.c. the applicant has demonstrated that the proposed facility will not substantially impair the health, safety, or welfare of the present or expected inhabitants of the area of site influence.

Throughout these findings there are numerous references to pages of the hearing record (TR ____). These references are intended solely as a guide to the type of information considered by the Council in arriving at its findings. They are not intended to be a complete representation of all the evidence considered in arriving at the finding. Each finding is based upon consideration of the entire record including all testimony and exhibits received during the course of the hearing.

The headings contained in the index and text do not limit the findings or conclusions contained thereunder to the subject matter of the heading. The interrelationship of the matters addressed is so great that all findings and conclusions are to be considered in their entirety.

II. FINDINGS OF FACT RELATED TO COMPLIANCE WITH APPLICABLE LAW

23. The record and application identify approximately fifty permits and approvals which are required for construction and operation of the Coal Creek Mine (TR 74). The Council hereby finds and determines that the following permits and approvals have been granted:

a. Air Quality Permit to Construct, Permit No. CT-120 from the Air Quality Division, Wyoming Department of Environmental Quality, dated February 27, 1978.

b. Amendment to Expand, No. CT-120A, from the Air Quality Division, Wyoming Department of Environmental Quality, dated July 31, 1978.

c. A Permit to Appropriate Groundwater, No. U.W. 31396 from the Office of State Engineer.

24. The following permits or approvals are required prior to commencement of construction of the Coal Creek Mine. Application has been made to the appropriate agency for these permits or approvals.

a. Environmental Impact Statement approval by the U.S. Environmental Protection Agency. Draft Environmental Statement officially transmitted August 24, 1978.

b. Approval of Mining and Reclamation Plan by the U.S. Geological Survey, submitted September 29, 1977.

c. Permit to Mine, Land Quality Division, Wyoming Department of Environmental Quality, application submitted September 29, 1977.

d. License to Mine, Land Quality Division, Wyoming Department of Environmental Quality, application submitted December 27, 1976.

25. The following permits or approvals are required or may be required in addition to those specified above based upon the various contingencies of construction or operation of the facility.

a. Prevention of Significant Deterioration Permit (10 to 18 million tons per year) from the U.S. Environmental Protection Agency.

b. Permits to Appropriate Groundwater (2) from the Office of State Engineer.

c. National Pollutant Discharge Elimination System Discharge Permit from the Water Quality Division, Wyoming Department of Environmental Quality.

d. Permit to Construct a Public Water Supply from the Water Quality Division, Wyoming Department of Environmental Quality.

e. Permit to Construct a Wastewater Treatment Facility from the Water Quality Division, Wyoming Department of Environmental Quality.

f. Permits to Construct Settling Ponds (13) from the Water Quality Division, Wyoming Department of Environmental Quality.

g. Reservoir Permits (15) from the Office of State Engineer.

h. Air Quality Permit to Operate from the Air Quality Division, Wyoming Department of Environmental Quality.

i. Approval to Construct and Operate a Solid Waste Disposal Site (2) from the Solid Waste Management Program, Wyoming Department of Environmental Quality.

j. Approval of Mining and Reclamation Plan for State Coal leases from the Commissioner of Public Lands.

k. Special Use Permit for Access Road from the U.S. Bureau of Land Management.

l. Special Use Permit for Overstripping from the U.S. Bureau of Land Management.

m. Scoria Permit from the Commissioner of Public Lands.

26. There is not a final land use plan for Campbell County to date. The Coal Creek site is not currently zoned.

27. The applicant has obtained, made application for, or intends to apply for necessary permits and approvals for construction of the facility.

III. FINDINGS OF FACT RELATED TO THE THREAT OF SERIOUS ENVIRONMENTAL INJURY

28. Thirteen of 33 archeological sites located on the permit area were tested by the Wyoming State Archeologist and, while construction clearance has been given by the State Archeologist, the applicant has agreed to monitor all soil removal procedures for hidden resources of cultural significance (TR 127). No other cultural, paleontological, or scenic resources of significance are recognized on the Coal Creek site (TR 99, 127; Appl. II-133-134, VIII-17).

29. No toxic materials have been found thus far in overburden samples (TR 69), though seleniferous topsoils and primary/secondary selenium plants are present on the site (M&R Plan, Revised, II-15g-16a). The applicant's intensive soil management program is designed to monitor for toxic materials and, if located, contingency plans exist to properly dispose of toxics in a manner that will not affect surface or groundwater quality (TR 70).

30. No listed rare or endangered species of plants or animals are known to be presently residing on the Coal Creek site (TR 126), though bald eagles are known to be rare winter residents in the Coal Creek area (App. II-49; M&R Plan II-73) and a black-footed ferret sighting was confirmed near the Black Thunder Mine south of the Coal Creek site (TR 142).

31. A monitoring program has been designed and implemented in cooperation with the Wyoming Department of Environmental Quality to continually monitor the air quality in the area (TR 117). A slight deterioration of air quality is anticipated in the immediate vicinity of operations (TR 118). The applicant is also involved in a cooperative air quality study with several other mining companies in the region (TR 132).

32. Extensive vegetation studies have been conducted on the site and will continue throughout the life of the mine to ascertain reclamation success (TR 125). Big sagebrush shrublands which comprise 62.4 percent of the lease (TR 123) will not be restored in the reclamation program unless seedling survival and germination studies planned by the applicant successfully demonstrate the feasibility of surface rehabilitation with sagebrush (Applicant's Response to Staff Questions, p. 9).

33. Mine dewatering could affect wells one to three miles from the site. The applicant has agreed to replace any wells in the area of site influence that are adversely affected by the applicant's mining activities (TR 104). The applicant's drilling program for monitoring the quality and quantity of underground water will continue through project completion (TR 103-105).

34. Surface water quality will be maintained by implementation of a complex system of ditches, pipes, and settling ponds and erosion control techniques (TR 128). The applicant has committed to an ongoing surface water monitoring program (TR 109) and stock ponds/reservoirs that will be destroyed during mining will be replaced in number and in kind (Appl. V-3).

35. The applicant will provide personnel for operation of environmental and monitoring programs, will initiate employee education/orientation programs to delimit environmental goals, and will provide contractors and operators with manuals regarding environmental goals (TR 128). The applicant has assured the Council that if new methods of reclamation and restoration of physical features are discovered, the applicant would be favorably inclined to adopt such reclamation techniques (TR 139).

36. Much of the limited riparian habitat associated with drainages and ponds/reservoirs on-site will be destroyed during mining including scattered trees serving as important raptor nesting habitat. The applicant has committed itself to studies and a management plan to relocate raptor nests including those of two golden eagle pairs on-site (App. VIII-13). Relocation attempts are required to be conducted in compliance with the Bald Eagle Protection Act (16 USC 568c).

37. The proposed project will dramatically change the current systems of plant and animal life on the lease (TR 129) but reclamation plans are anticipated to at least partially restore preconstruction systems. A sage grouse strutting ground is located at the approximate site of the proposed facility and the applicant has committed itself to studies to relocate the strutting ground (TR 140-141).

38. Solid wastes from construction or operation will be disposed at an approved landfill operation or will be recycled while oils and grease generated on-site will be disposed of off-site in an acceptable manner or will be recycled (TR 128; Appl. VI-24).

39. The major effect of the project on mineral resources will be the recovery of approximately 333 million tons of coal (TR 25) under approximately 6500 surface acres (TR 31) at a removal rate of 10 million tons per year (TR 25).

40. The applicant will take all appropriate measures necessary to control dust including watering of haul roads and quick reclamation of bare areas (TR 128, M&R Plan III-48). Water from mine dewatering will be used for haul road dust suppression.

41. Construction and operation of the Coal Creek mine is not expected to have a significant effect on the local climate though microclimate at the soil surface will be altered due to lessened micro-relief (App. VIII-6-7).

42. Major premining uses of the Coal Creek site include ranching, oil and gas production, and wildlife habitat. The surface presently supports 2905 head of domestic stock, several oil wells, and provides for hunting of upland, big, and small game (App. II-14-17). Post-mining land uses are anticipated by the Applicant to be similar to premining uses (App. V-3, VIII-2).

43. Preliminary information suggests that recharge of aquifers on-site may occur through scoria outcrops on the eastern lease boundary (TR 137). Destruction of these outcrops could subsequently impair groundwater recharge. However, the applicant suggests that a new porous zone may develop in overburden replacement due to a natural segregation of overburden materials (TR 138). It is not possible to state at this time with any assurance that groundwater recharge will be impeded by the applicant's mining and reclamation procedures.

44. Surface waters on the lease have been found insufficient for irrigation or farming (TR 110). Due to the ephemeral nature of Coal Creek and its tributaries, it is not anticipated that any of the site will be designated as an alluvial valley floor (Staff Review, p. 2-14).

45. Surface water quality measurements (suspended solids, iron, manganese, pH) will be taken during each runoff event at the spillways of each sedimentation pond flume and suspended solids will be measured from samples taken in the streambed above and below the lease to ascertain the effects of operations (M&R Plan IV-45). Other appropriate measurements will be made at disturbed area discharge points and at the sewage lagoon discharge. It cannot be predicted with the limited information available whether the Coal Creek project will contribute to increased salinity and sedimentation in the Belle Fourche River, and subsequently, Keyhole Reservoir though it is unlikely the project's incremental effect would be significant.

46. During the construction phase, the construction workforce will be utilizing temporary waste facilities that will be serviced by a subcontractor who will make use of the existing treatment facilities in Gillette to dispose of raw sewage (Applicant's Response to Staff Questions, p. 5). The permanent waste treatment facility which will be designed for total containment and evaporation will be operational in 1981. A two-cell aerated lagoon will be operated in series with any discharge chlorinated and the effluent will meet all State and Federal discharge requirements (Appl. III-20).

47. Resource-oriented recreational resources and opportunities are limited in Campbell County and will be further stressed by the population increase and urban expansion associated with the Coal Creek project (Staff Review, p. 2:17-19; 4:12-13). However, there is no evidence to suggest that the applicant's fractional component of the regional impact on recreational resources is significant.

IV. FINDINGS OF FACT RELATED TO SOCIAL CONDITION

48. The local governments primarily affected by the proposed facility are Campbell County, Campbell County School District No. 1, the City of Gillette, Gillette-Campbell County Joint Powers Board, and the Gillette-Campbell County Fire Protection Joint Powers Board (App. II-18). The unincorporated area of Wright, developed by ARCo's Housing Services, Inc., will also be directly affected.

49. The applicant anticipates a forty-two month construction schedule starting in February, 1979. The peak construction workforce is 290 in June, 1981 (Application Supplement No. 1, p. 9).

50. Production employment is expected to start in 1979. It will peak and remain constant at 288 in 1987 (Application Supplement No. 2, p. 20). The total labor force associated with the Coal Creek Mine, including mine employment induced employment, and unemployment, is 613 in 1990 (Application Supplement No. 2, p. 11).

51. The applicant projects 472 occupied households attributable to the proposed mine by 1990. The associated population is 1,605 with 1,204 persons projected to reside in Gillette, and 401 in Wright, or about 75 percent, and 25 percent, respectively (Application Supplement No. 1, p. 12). It is the applicant's intent to increase the "capture rate" for Coal Creek employees, such that 50 percent of the operating workforce will reside in Wright (TR 289). Gillette points out that the demographic projections and employment multipliers used by the applicant are significantly lower than those used in other studies performed in Campbell County (Gillette Letter, p. 1; TR 250). The Staff reviewed the available information, and in its published review, used similar or identical multipliers as the applicant. The Council finds the applicant's projections of Coal Creek-related population reasonable given the state-of-the-art in such matters, but recognizes that household size, and other demographic statistics may vary over time, with the result that at any given time, area population may actually be either greater than, or less than the applicant's projections.

52. Gillette has had difficulties in maintaining its water supply system. To overcome the problem, the city is developing a well field in the Madison Formation near Keyhole Reservoir at a cost of $17 to $22 million (Staff Analysis 2-30). During the interim, until the new wells and pipelines are finished, the city plans to drill supplemental new wells. Water storage capacity is not a problem. Gillette has a total water storage capacity of six million gallons, which, based on current consumption rates, should be adequate storage for a population of 40,000.

53. Wastewater treatment has been a problem in Gillette, with the Gillette wastewater treatment plant being operated in excess of design capacity of 1.2 million gallons per day (MGD). Pursuant to U.S. Environmental Protection Agency directive, Gillette is making capital and operational modifications to double the capacity of the existing treatment facility, which will accommodate a population of approximately 24,000 persons, and will provide an interim solution for the waste treatment until about 1981, with or without applicant's proposed mine.

54. The current landfill which Gillette maintains southwest of town is the only public facility in the county. The sanitary landfill has a current life expectancy of less than two years, with or without the Coal Creek Mine. The city and county will be participating in a joint landfill engineering study to resolve the problem (Staff Analysis 2-31).

55. Regardless of whether or not the Coal Creek Mine is developed, the present total Campbell County housing stock will need to more than double by 1990 to accommodate the projected demand (Application Supplement No. 1, p. 17). The applicant projects a demand for about 335 units in Gillette and 83 units in Wright (Staff Analysis 4-23).

56. The capital facility needs for Wright are either on line or in the planning stage, including: mobile home pads, recreational vehicle pads, single family units, apartments, paved streets, water storage and treatment, fire protection, recreation, library, and shopping facilities. The bulk of the facilities will be on line in 1978, with the exception of some types of housing units (App. VI-208). The master plan for Wright includes suitable housing (1,881 dwelling units) for a population considerably larger than that associated with the proposed Coal Creek mine.

57. The applicant reports a total of 52 dwelling units in place in Gillette, plus an additional 34 developed lots (App. VI-209). In addition, the applicant has sufficient holdings around Gillette to provide for an additional 375 dwelling units. While the applicant's housing activities in Wright are more than adequate to offset total Coal Creek-related housing demands, the presence or lack of adequate housing in Gillette is of concern in this proceeding. Sufficient land is available in the Gillette area, such that lot space availability is not a constraint to energy resource development in Campbell County (Staff Analysis 2-39). However, it is impossible to predict whether the private sector will respond to accommodate the projected housing demand.

Insofar as the Coal Creek permit proceeding is concerned, the applicant's position on housing seems to be one of continued community development at Wright, while at the same time keeping a watchful eye on the needs of its employees who choose to reside in Gillette. The applicant owns a 95-acre parcel of undeveloped land adjacent to Gillette corporate bounds, which land is commonly known as "Killarney Phase II". Annexation of the Phase II portion of applicant's Killarney subdivision is viewed by Gillette as a logical extension of the City (Gillette Letter, p. 3). The applicant included tap fees which would be associated with housing development on the Phase II lands in its projections of Gillette's municipal budget through 1990 (App. VI-85 to VI-91). While the applicant has no current plans for developing the Phase II lands, under cross-examination its Manager of Community Development, indicated that ARCo would not at present consider selling the lands in question, in anticipation that some form of housing development might be necessary in connection with the company's operations in Campbell County (TR 221).

58. The Staff expects a shortage of mobile home spaces in and around Gillette during 1978-81 owing to the closure of bachelor quarters, mobile home, and recreational vehicle facilities constructed in conjunction with the Wyodak steam-electric generating station (Staff Analysis 4-24). Additionally, new residents may find themselves unable to afford any type of single-unit housing other than mobile homes (Staff Analysis 2-39).

59. CampbellCounty has a joint City-County Fire Department resulting from a 1975 joint powers agreement (App. VI-177). The agreement provides for a levy of up to one-half mill for fire protection services. With the projected increase in assessed valuation, and the 0.5 mill levy, funding for fire protection facilities should be adequate (Staff Analysis 2-34).

60. The Sheriff's Office and county jail are currently considered adequate. With an average occupancy rate of one-third of capacity, the current

jail should be adequate for any mine development scenario, with some minor exceptions (App. VI-123). The proposed facility will create a need for 1 to 2 deputies, which comprises a negligible increase and is more than compensated by increased assessed valuation (Staff Analysis 2-32).

61. The city jail is currently inadequate (App. VI-126). The city needs a new jail facility, with a preliminary cost estimate of one million dollars. An alternative would be for the city and Campbell County to share a facility and associated operating costs (Staff Analysis 2-32). The coal Creek Mine will create a need for one to two more officers by 1990. The cost of these officers has been included in the city's budget.

62. Campbell County's current 31-bed capacity hospital is being replaced with an $8.85 million 65-bed facility. The Campbell County Special Hospital District has a five percent debt limit. Subtracting the current net debt, the Board had a legal debt margin of $9.3 million in fiscal year 1979. Operating budgets are supported by patient fees and a separate three-mill levy. These three revenue sources should provide for the foreseeable expenditures associated with energy resource development in Campbell County (Staff Analysis 2-36).

63. Campbell County has had a continuing problem attracting and retaining medical personnel. Campbell County currently has 10 doctors. According to local and state standards, there is a need for 25. The new hospital is expected to aid in attracting physicians, and coupled with the current recruiting program, and salary guarantees should feature about 20 doctors in Gillette by year end 1978 (Staff Analysis 2-35).

64. The local mental health office has 3,800 square feet of office space, plus an unfinished basement. Office space should not be a problem. The local center does not have guaranteed sources for its operational budget when Federal funding ceases at the end of fiscal year 1979. The county and local Hospital District should have sufficient taxing capacities to provide for future funding needs if deemed warranted (Staff Analysis 2-37).

65. Campbell County School District No. 1 should have no problem financing new and replacement schools for any potential mining scenario, so long as the voters are so inclined. Subtracting the current debt of $7.1 million, the district will have a legal debt margin of $41.5 million. Operating budgets are in excellent shape as well.

66. Gillette currently has a recreation center and the voters have just approved a $1.2 million bond issue to expand the facility. Wright will also have a recreation center. The County Recreation Department derives its support from user fees and a mill levy component of the county 12 mill levy. The Recreation Board can attempt to establish a special district with a separate one mill levy, if the current funding mechanism proves inadequate. Overall, and considering the assessed valuation of the county, with diligent use of the mill levy available, funding could be made available to meet recreational facility needs generated by virtually any coal development schedule. (Staff Analysis 2-38).

67. Construction of the proposed facility will lead to an incremental increase in traffic congestion within and around Gillette. Based upon projected employment and related population, an increase of 1.9 to 4.3 percent above baseline traffic movement can be expected through 1990.

68. The applicant has initiated a successful bus system at the Black Thunder Mine and is willing to establish a bus system for the Coal Creek Mine (TR 244 and 248).

69. The George Amos Memorial Library is the main library facility in the county. Branch libraries are located in Wright and Recluse. The County government may levy up to two mills for library services. Last fiscal year the library operated with a budget of $266,181 and a mill requirement of 0.59 or

$210,105. With the estimated assessed valuation of $486 million for fiscal year 1979, an 0.59 mill levy would raise $287,000. A 2.0 mill levy would raise $972,000. Diligent use of the mill levy available, in concert with a sinking fund, will allow Campbell County to provide for operating and capital budgets at any level deemed desirable.

70. The fiscal outlook for Campbell County appears to be very positive. The county should have a sufficient debt limit and operating budget to cover foreseeable demands for facilities and services. The Coal Creek increment has a positive effect on the county's fiscal situation after 1980 (Staff Analysis 2-45).

71. The impact of the proposed facility on Gillette is inextricably tied to existing and proposed mining development in Campbell County. The city is actively planning and constructing for a 1990 population of 35,000 persons. To achieve that level of growth, Gillette requires that the Coal Creek mine, and numerous of those additional projects identified in the application be constructed, and further, that the attendant population chooses to reside in the corporate boundaries of the city. This latter requirement stems from the need to finance expanded facilities through hookup charges and user fees spread over a broad population base, rather than assessing exhorbitant rates to the existing users, or a much smaller overall service population (Staff Analysis 4-27). If the city realizes its goal of making the four utility services self-supporting, and the Council has no reason to believe that the city will not achieve that aim, and the planned 35,000 population is reached, the city should have sufficient operating revenues during eight out of twelve years through 1990 (Staff Analysis 2-48). Operating budget deficits of approximately $2,000 (1982), $253,000 (1984), $295,000 (1985), and $306,000 (1986) are displayed for those years when expenditures would appear to exceed revenues based upon the method utilized by the staff in carrying out projections at Table 2.7 of its published analysis.

Overall, the city has assumed a certain amount of risk in going forward with its growth management plans. The proposed Coal Creek mine and other projected developments are necessary elements of the overall scheme, while at the same time contributing to the need for such management plans (Staff Analysis 2-47).

V. FINDINGS OF FACT RELATED TO ECONOMIC CONDITION

72. The applicant's activities will upgrade jobs and increase family and per capita income (App. VI-4 and VI-46).

73. The applicant's activities will relieve short-term unemployment for construction workers as other mines in the area finish construction. Overall, future unemployment rates in Campbell County will be attributable to external factors, independent of the proposed facility (Staff Analysis 4-20).

74. The purchasing power of coal miners has and should remain ahead of inflation (Staff Analysis 4-29).

75. Construction of the Coal Creek Mine should provide for more employment opportunities in the area of site influence. It should not contribute to local employment dislocation or skill obsolescence in the immediate future.

76. The applicant's activities will not diversify the economy, but will cause a higher concentration in the mining sector (App. VI-34).

VI. FINDINGS OF FACT RELATED TO HEALTH, SAFETY, AND WELFARE

77. The Coal Creek facility is located in a minor seismic risk zone with the nearest area of moderate to major risk approximately 250 miles west of the lease (M&R Plan II-160-167).

78. On-site safety measures will include fencing of the mine plant area, controlled parking, minimization of access roads, and restriction of employee activities to work areas (TR 127-218).

79. Blasting will be required to be conducted pursuant to Wyoming Land Quality Regulations effective as of September 9, 1978.

80. The facility's compliance with all emission standards, ambient air quality standards, and waste water discharge standards will preclude impairment of the health of area inhabitants.

81. The Federal Mine Safety and Health Administration (MSHA) regulations protecting the safety of the facility's employees will apply.

82. The baseline quality of on-site groundwater has been established and a groundwater monitoring system proposed to determine whether groundwater quality is contaminated by mining activities (Appl. VII-2, M&R Plan IV-52).

VII. CONCLUDING FINDINGS OF FACT

83. Construction and operation of the Coal Creek Mine and attendant facilities will not adversely affect archeological, historical, paleontological, or scenic resources in the area of site influence.

84. It is unlikely that development of the project will pose a threat to any listed rare or endangered species and it is improbable that mining of the Coal Creek lease in itself would constitute a threat to the bald eagle, a rare winter resident in the Coal Creek area, since the bald eagle would not be exclusive to Coal Creek during the time of year that it has been observed in the area.

85. The applicant's proposed program to minimize surface water quality degradation due to mining is adequate to meet existing water quality protection requirements.

86. Current systems of plant and animal life on the Coal Creek site will be adversely affected by the proposed mining but the applicant's studies, monitoring, and reclamation/restoration plans will help minimize these impacts.

87. The health, safety, or welfare of present or expected inhabitants of the area of site influence will not be weakened relative to current conditions.

88. The applicant will mitigate any adverse effects of mining on local water wells.

89. The emission control procedures and dust suppression techniques proposed by the applicant are adequate to satisfy existing air quality standards.

90. The project's effects on regional resource-oriented recreation comprise an incremental adverse impact on these resources.

91. Construction and operation of the proposed mine will have minimal adverse impact on regional climatic patterns and meteorology.

92. No known environmental factor would prohibit the construction and operation of the mine and appurtenant components at their respective proposed sites.

VIII. CONCLUSIONS OF LAW

The Council concludes that:

93. In accord with Section 6.a., Industrial Siting Rules and Regulations:

a. The applicant has demonstrated that the facility will comply with all applicable local, state and federal laws through each phase of planning, construction and operation through the timely obtainment of the permits and approvals listed previously. Determination herein does not preclude consideration of additional permits and approvals which have not been considered either in the application or in the record;

b. The numerous additional permits and approvals required are specifically intended for protection of the environment, and the health, safety and welfare of present and future inhabitants of the area.

94. In accord with Section 6.b., Rules and Regulations:

a. The facility does not pose a threat of serious injury to the environment:

(1) The record reflects that the Coal Creek Mine will exert minimal effects on: archeological, cultural, and paleontological, and historical resources; surface and groundwaters; air quality; regional climatic patterns and meteorological conditions; ambient noise; and occupational exposure. Effects on resource-oriented recreation while adverse in nature, are not significant relative to the total cumulative effects of energy resource development in Campbell County.

(2) Construction and operation of the facility will not violate any presently existing zoning requirements or land use plans.

(3) The record reflects that the applicant's studies, monitoring programs, and planned and potential mitigation plans will minimize the effects of the project on vegetation, wildlife, and soils.

95. In accord with Section 6.c., Rules and Regulations, the facility will not substantially impair the health, safety, and/or welfare of area inhabitants:

a. The applicant's proposed impact alleviation measures and contingency plans, based as they are on offsetting an equivalent of population-related impact through community development efforts at Wright, Wyoming, coupled with modest measures in Gillette, are adequate to preclude substantial impairment of the health, safety, and welfare of area inhabitants. The status of developments in Wright, and in Gillette will be monitored to ensure continued compliance with conclusions reached here.

b. The likelihood of earthquake damage to the health, safety, and welfare of area inhabitants is low since the Coal Creek facility is located in an area of minor seismic risk.

96. Based on the foregoing findings of fact and conclusions of law, the Council finds that the applicant has demonstrated:

a. That the proposed facility complies with all applicable law;

b. That the facility will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants; and

c. That the facility will not substantially impair the health, safety, or welfare of the inhabitants.

IX. ORDER

Based upon the foregoing, it is ordered that the permit to construct the facility be granted pursuant to W.S. 35-12-109(e)(iii) subject to the conditions suggested herein.

It is so ordered this 22nd day of December , 1978.

THE WYOMING INDUSTRIAL SITING COUNCIL

John D. Troughton, Chairman

ATLANTIC RICHFIELD COMPANY

Docket No. WISA-78-1

COAL CREEK MINE
AND ASSOCIATED FACILITIES

INDUSTRIAL SITING PERMIT
FOR COAL CREEK MINE
AND OTHER PERTINENT FACILITIES

Permit No. ISC-01-01-78

1. The Industrial Siting Council (the Council) having found that:
   A. The application for permit complies with the requirements of the Wyoming Industrial Development Information and Siting Act, and the Rules and Regulations of the Council; there is reasonable assurance that the activities authorized by this permit can be conducted in compliance with all applicable federal, state, and local law; that activities herein authorized will not pose a threat of serious injury to the environment, nor to the social and economic condition of inhabitants or expected inhabitants in the affected area; and that authorized activities will not substantially impair the health, safety or welfare of area inhabitants.
   B. Atlantic Richfield Company (the Applicant) has described the proposed mine and processing facilities both in construction and in operation, including reclamation plans, and has identified the major features or components incorporated therein for the protection of the health and safety of the public.
   C. Pollution and environmental control measures and equipment have been identified and described by the applicant.
2. Pursuant to the Wyoming Industrial Development Information and Siting Act, and Chapter I, Industrial Development Information and Siting Rules and Regulations, and pursuant to the Initial Decision of the Council, the Industrial Siting Council hereby issues an Industrial Siting Permit to the applicant for construction of the Coal Creek Mine and other pertinent facilities as described in the application, supplements, and hearing record.
3. This permit shall be deemed to contain and be subject to the conditions specified within W.S. 35-12-116 through 35-12-120, and Sections 11 and 12, Industrial Development Rules and Regulations; is subject to all other applicable sections of the Industrial Development Information and Siting Act, Rules and Regulations, and Orders of the Council now or hereafter in effect based upon this permit; and is subject to conditions specified or incorporated below:
   A. The facility as authorized by this permit shall be constructed and located at the site described in the application, in Campbell County, Wyoming.
   B. This permit authorizes and is conditioned upon the Applicant constructing the entire facility as described in the application,

supplements, and hearing record, in accordance with the principle engineering criteria and environmental protection and socioeconomic impact mitigation commitments set forth therein.

C. Construction shall commence February 1, 1979, or as soon thereafter as is practicable, based upon satisfactory compliance with other conditions embodied within this permit.

D. The facility as authorized herein shall be constructed in accordance with the construction schedule as described in the application, supplements, and the hearing record, except as provided by Section 12.b., Chapter 1, Industrial Development Information and Siting Rules and Regulations.

E. The facility as authorized herein is subject to the following conditions relating to compliance with all applicable local, state, and federal law:

(1) The Applicant shall institute the necessary measures to obtain all required permits and approvals, and shall make an annual report to the Office of Industrial Siting Administration. The report shall provide a listing of all permits and approvals obtained during the preceding year, all applications pending, and all permits and approvals for which application will be made in the following year.

(2) The Applicant shall notify the Office of Industrial Siting Administration immediately whenever it submits an application or receives a permit or approval subsequent to this Order which would materially alter the design, construction or operation of the facility. Such notification by the Applicant shall be deemed to constitute a request for amendment of the permit pursuant to W.S. 35-12-106(c) and W.S. 35-12-111(f), if the Council determines that such differences materially change the nature of impact of the proposed facility.

F. The facility as authorized herein is subject to the following conditions for the continued protection of the environment and social and economic condition, and health, safety, and welfare of present ane expected inhabitants of the area:

(1) The Applicant shall take the necessary mitigating actions identified in the application and the testimony of the Applicant's witnesses in the hearing record, during construction of the facility, to avoid unnecessary adverse environmental impacts from construction activities.

(2) The Applicant shall maintain sufficient records to furnish evidence of compliance with environmental controls as prescribed, and shall furnish such records for inspection by the Administrative Staff of the Office of Industrial Siting Administration upon demand.

(3) Before engaging in a construction activity not evaluated by the Council, the Applicant shall prepare and file an environmental evaluation of such activities with the Office of Industrial Siting Administration. When the evaluation indicates that such activity may result in a significant adverse impact that was not evaluated, or that is significantly greater than that evaluated by the Council, the Applicant shall provide a written evaluation of such activities and obtain approval of the Council prior to undertaking the activities.

(4) If unexpected harmful effects or evidence of irreversible damage are detected during facility construction, the Applicant shall provide to the Office of Industrial Siting Administration an acceptable analysis of the problem and a plan of action to eliminate or significantly reduce the harmful effects or damage.

(5) In order to assure that points of cultural and historical significance might be properly guarded, the Applicant shall notify the Wyoming Recreation Commission-State Archaeologist in a continuing manner regarding its plans and proposals for construction and operation of the facility.

(6) The Applicant shall implement the environmental monitoring programs and shall take the necessary mitigating actions as summarized in Section 5.4 (Table 5.1) of the Staff Review.

(7) The Applicant shall take the necessary mitigating actions, as identified within the application and the hearing record, to reduce the socioeconomic impacts of the facility upon present and expected inhabitants. In addition to whatever other mitigating actions the Applicant may take or may be presently taking, the Applicant shall:

1. Implement programs described in the application and hearing record, and shall:

   a. Periodically review the state of housing availability within Campbell County, Wyoming and adjacent area(s) with a view toward ensuring that adequate housing shall be available for Coal Creek employees and facility-related population, and shall take reasonable steps toward meeting any housing shortfall which might develop during construction and initial operation of the Coal Creek Mine. The monitoring function called for under this subsection may be terminated upon a showing that adequate housing facilities will be available within Campbell County and the adjoining area taking into consideration other concurrent industrial development.

b. Provide for the development of housing and related facilities at Wright, Wyoming in accordance with the master plan described as Applicant's Exhibit V, as modified in the course of the proceeding, and as subsequently modified, if and as necessary in the good-faith business judgement of the Applicant, to accommodate an equivalent population as is related directly or indirectly to employment at the Coal Creek Mine (taking into account all relevant factors), and making allowance for any development of housing facilities the Applicant may be required to engage in either directly or indirectly pursuant to provisions under Condition 3F(7)1.a of this permit;

c. Provision of a means of mass transportation for employees to the Coal Creek Mine from the communities of Gillette and Wright, provided, however, that upon a showing that employees do not choose to avail themselves of such form of transportation, the program called for under this section may be terminated;

2. The Applicant shall file an annual report describing the extent of its efforts at socioeconomic mitigation. Ten copies of the report shall be presented to the Office of Industrial Siting Administration annually within thirty days of the effective date of this permit, and shall be required to be filed annually through the first two years of commercial operation. The report shall include a brief description of current social and economic conditions within the area of site influence as defined for the Coal Creek mine; a discussion and evaluation of Applicant's mitigation efforts pursuant to requirements of this permit; and projections as to what, if any, additional mitigation efforts shall be required during the succeeding 12-month period as a proximate result of construction or operation of the Coal Creek Mine.

4. Reports required to be submitted to the Office of Industrial Siting Administration may correspond to an identical format as might be submitted to other state and/or federal agencies, excepting that all reports submitted to the Office must subscribe to the entire scope of the informational requirements of specific conditions to this permit as set forth herein.

5. The Applicant shall authorize entrance to its property and facilities by members of the Administrative Staff of the Office of Industrial Siting

Administration, without prior notice, for purposes of inspection and monitoring for compliance with terms and conditions of this permit.

6. This permit is effective as of its date of issuance and shall remain in force throughout the useful life of the facility.

Dated this 22nd day of December , 1978.

THE WYOMING INDUSTRIAL SITING COUNCIL

Chairman

CERTIFICATE OF SERVICE

I, Linda L. Palco, hereby certify that I caused a copy of the attached ORDER AND PERMIT NO. ISC-01-01-78, ATLANTIC RICHFIELD COMPANY, Docket No. WISA-78-1 re: Coal Creek Mine and Associated Facilities to be served on the following named persons, by depositing a copy of the same in the U.S. mail postage prepaid at Cheyenne, WY, duly addressed as follows, on December 26, 1978.

Mr. Russell S. Jones, Attorney, Legal Division, Atlantic Richfield Co., 1871 Anaconda Tower, 555 17th St., Denver, CO 80217
Mr. Gerald Rupp, Manager Permits and Compliance, Coal Operations, Atlantic Richfield Company, 1871 Anaconda Tower, 555 17th St., Denver, CO 80217
Mr. John D. Troughton, Chairman, Industrial Siting Council P. O. Box 189, Kemmerer, WY 83101
Mr. Robert L. Wallick, Ford Ranch, Big Horn, WY 82833
Mr. Paul Anselmi, P. O. Box 1257, Rock Springs, WY 82901
Mr. William H. Vines, 509 Ninth St., Wheatland, WY 82201
Mr. Jack Sullivan, P. O. Box 15829, Phoenix, AZ 85060
Mr. J. D. Brunk, Moose, WY 83012
Mr. Edward L. Grant, Attorney at Law, American National Bank Bldg., Cheyenne, WY 82001
The Hon. M. B. Enzi, Mayor of Gillette, P. O. Box 540, Gillette, WY 82716
Mr. John P. McClelland, Ch., Campbell Co. Comm., Gillette, WY 82716
Ms. Vivian E. Addison, Clerk, Campbell Co., Gillette, WY 82716
Mr. J. O. Reed, Supt., School District No. 1, Campbell County, Central Service Bldg., 1000 W. 8th, Gillette, WY 82716
Chairman, Gillette-Campbell Co. Joint Powers Board, Gillette, WY 82716
Gillette-Campbell Fire Protection Joint Powers Board, c/o Mr. Bernard Saunders, Firehouse, Gillette, WY 82716

Linda L. Palco

Linda L. Palco, Administrative Assistant

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