

0070



2005 General

DTE Energy Services*Fax Transmittal*

To: Priscilla Burton Fax No: (435) 613-1152
 cc: Sherry Samples, DTE Utah Synfuels
 Jeff Grant/Rich Cooper, DTEES
 Env Files/DTE Utah/Land Matters/Regulatory Communications
 Synfuel Files (6.4.2.4)

RECEIVED**SEP 16 2005****OGM PRICE FIELD OFFICE**

From: Katie Panczak

Date: 9/16/2005

Total No. of Pages (including cover): 15

Urgent	For Review	Please Comment	Please Reply
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Comments/Notes:

Priscilla,

As we discussed, I am forwarding DTE Utah-related documents I believe you will find helpful. Included with this fax are the following:

- August 22, 1996 letter from Mary Ann Wright to Covol determining that a coal mining and reclamation permit is not required for the synfuel facility (DTE received as a fax from Headwaters on September 13, 2001).
- Sept – Nov 2001 correspondence to/from State of Utah Department of Environmental Quality notifying of facility Ownership Change and Company Name Change to DTE Utah Synfuels (6 pages)
- Cover sheets from Division of Air Quality and Division of Water Quality demonstrating current permits are issued in the name of DTE Utah Synfuel

Please do not hesitate to contact me if you have any further questions regarding this facility. I can be reached at 734.302.8235. I would also appreciate a copy of your site visit report (fax: 734.302.5330).

Thank you,
 Katie Panczak

DTE Energy Services
 414 S. Main Street
 Suite 600
 Ann Arbor, MI 48104
 Phone: (734) 302-8235
 Fax: (734) 302-5333

Oct-25-96 01:12P Loge Capital Company

(377) 687-2795

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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3 Third Center, Suite 300
Salt Lake City, Utah 84119-1303
801-538-5343
801-538-3243 (Fax)
801-538-3318 (TDD)

August 22, 1996

Steve Brown, P.E.
Vice President Engineering/Construction
COVOL
3280 No. Frontage Road
Lehi, Utah 84043

Re: Response to July 11, 1996 Letter

Dear Mr. Brown:

This letter is in response to your letter of July 11, 1996 about whether or not the proposed activity by COVOL Technologies will require a permit under the Utah Coal Regulatory Program. It is the Division's understanding that coal fines, i.e. "coal" is being converted from the "fines" to a "briquette" with no waste being generated. If this is the case, then no coal mining and reclamation permit is required.

However, if coal waste (e.g. slurry or coarse refuse) is used as the source material to be processed and waste is generated, a mining and reclamation permit could be required. Additionally if any other facts change from those identified by Covol or discovered by the Division, a permit may be required. Mining of the coal waste at the host site would also need to be addressed through the coal regulatory process.

If you require further clarification or have any questions, please let me know.

Sincerely,


Mary Ann Wright
Associate Director of Mining

Enclosure

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Lance Braton
Pamela Grubbs-Ling
Dawn Maddox
Joe Hefner
PFO

Oct-25-96 01:12P Logar Capital Company

(801) 687-2795

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

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

James W. Carter
Division Director

355 West North Temple
3750 Center, Suite 350
Salt Lake City, Utah 84103-1292
801-538-5340
801-539-3840 (Fax)
801-538-5319 (TDD)

August 22, 1996

TO: File
FROM: Daron R. Haddock, Permit Supervisor *D.R.H.*
RE: Proposed Coal Fines Extrusion/Briquetting Facility, Covol Technologies, Inc., Carbon County, Utah

SYNOPSIS

On July 11, 1996 the Division received a proposal from Covol Technologies which discusses the installation of a coal fines extrusion/briquetting facility in Carbon County. Their plans are to use waste coal fines from coal mining and processing operations as raw materials in the production of coal pellets. Covol feels that this activity would not fall under the purview of the Utah Coal Regulatory Program and has asked for the Division's concurrence.

This memo is an analysis of the proposal and provides findings which will enable the Division to determine the permitting requirements for this type of facility.

ANALYSIS

Under the Utah Coal Regulatory Program it is necessary for anyone who engages in or carries out any coal mining and reclamation operations to first obtain a permit (R645-300-112.400). The question that must then be asked is, whether or not the Covol activity constitutes "coal mining and reclamation operations"?

This term is defined at R645-100-200 as follows:

"Coal Mining and Reclamation Operations" means (a) activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of Section 40-10-13 of the Act, surface coal mining and reclamation operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include all activities necessary and incidental to the reclamation of the operations, excavations for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting;

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Memo - Covol Technologies, Inc.
August 22, 1996

in-plant distillation; or sorting, leaching, or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. Provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16-2/3 percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to Section 40-10-8 of the Act; and, provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and (b) the areas upon which the activities described under part (a) of this definition occur or where such activities disturb the natural land surface. These areas will also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incidental to those activities.

Covol describes their activity as follows:

The facility will utilize Covol's patented process to convert approximately 400,000 tons of coal fines per year into a synthetic fuel similar to run-of-mine coal. The facility will consist of a power screen to remove any oversize material from the coal fines and then the fines will be stored in a storage silo. The materials will then be mixed with water and Covol's patented binder and then either briquetted or extruded into pellets. The materials will then be thermally dried to meet finish product moisture requirements and harden the material for handling purposes. The material will then be mixed with the oversized material and stockpiled until it is either trucked or shipped by rail to the end user.

At first reading it would appear that Covol's proposed activity would fall under the chemical or physical processing of coal criteria found in the above definition and would require permitting. However, a closer look at the definition reveals that in order for the activity to be considered Coal Mining and Reclamation Operations it would have to be conducted "in connection with" a coal mine.

No definition of "in connection with" has been given since it is felt that each regulatory authority must have discretion in order to make valid decisions about the applicability of the performance standards of SMCRA in individual cases.

The preambles to Federal Rules 30 CFR parts 785 and 827 (November 22, 1988 Federal Register) provide important insight for how to determine if a processing plant is being operated in connection with a coal mine.

The following statements should be considered when determining whether a facility is operating "in connection with" a coal mine:

- 1) "OSM is only requiring regulatory authorities to extend their permit requirements as far into the stream of commerce as those activities over which

mine operators and coal handlers who directly serve them, such as coal processors, have or could have control of operations."

- 2) The element of proximity is a valid consideration in determining whether a facility is regulated. (Activities at the site of a mine would be permitted.)
- 3) Coal preparation facilities which are being operated only in connection with another industrial facility, such as a power plant do not operate in connection with a mine and are not subject to regulation.
- 4) Does the facility have a useful life independent of the specific mine or mines which it serves?
- 5) Coal preparation facilities operated by retail sales dealers tend to be closely linked to end users and are generally not considered operating in connection with a coal mine.
- 6) Functional or economical relationships with a mine should be considered when making a "in connection with" determination. (Does the facility receive a significant portion of their coal from a mine? Does the facility receive a significant portion of the output from a mine? Does the facility have an economic relationship with a mine?)

FINDINGS:

- 1) Covol Technologies Inc. does not own, operate or control any coal mining operation.
- 2) Covol's facility is not located at the site of a mine.
- 3) The briquetting or extrusion of pellets for use as an industrial fuel seems to be more closely associated to an industrial or end use than to mining.
- 4) Covol's facility would not service any specific mine but could receive its raw materials from various sources and operate independent of any given mine.
- 5) Covol would be acting similar to a retail sales dealer by purchasing coal fines from various entities and then marketing and selling their end product under the Covol name.

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Memo - Covol Technologies, Inc.

August 22, 1996

- 6) There does not appear to be a functional or economic tie between Covol and any given mine. Covol indicates in the July 11, 1996 letter that their plant is not directly associated with mining. Covol's process is not necessary for any of the mines to continue operating. Covol might receive a significant amount of their source material from a particular mine but would not be tied to that mine. The raw material could come from a variety of different sources.

CONCLUSION:

The proposed Covol activity is not being done "in connection with" a coal mine. As such it would not require permitting under the Utah Coal Regulatory Program since it is not considered coal mining and reclamation operations.

If the nature of Covol's activity changes, revised findings or other conclusions may be necessary. Should Covol become associated with a mine or involved in the ownership or control of a mining entity or conduct mining activity such as extraction of coal from refuse piles or excavation for the purpose of obtaining coal they would certainly fall under the pur-view of the Coal Regulatory Program.

O:AFINDING.COV



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY

SEP 16 2000
Mark Cousins

Michael O. Leavitt
Governor

150 North 1950 West

P.O. Box 144820

Dianne R. Nielson, Ph.D.
Executive Director

Salt Lake City, Utah 84114-4820

(801) 536-4000 Voice

Richard W. Spritt
Director

(801) 536-4099 Fax

(801) 536-4414 T.D.D.

Web: www.deq.state.ut.us

DAQE-928-01

November 5, 2001

Katherine Panczak
Manager of Environmental Affairs
DTE Energy Services
414 South Main Street
Suite 600
Ann Arbor, MI 48104

RE: Notification of Company Name Change for the Approval Order (AO)
Project code: N1819-003

DAQE-1192-97, dated December 22, 1997, for Carbon County Modification for New Equipment and Production Increase

Dear Ms. Panczak:

This letter is in response to your submittals dated September 27, 2001 and October 22, 2001, requesting the name change for the holder of the above referenced AO. You are requesting that the name on the AO be "DTE Utah Synfuels, L.L.C." The current company name on the above referenced AO is "Covol Technologies, Inc." At some point after 1997 the name of this source became "Headwaters, Inc.," but the name on the applicable AO was not changed at that time, or since. This current procedure corrects the situation. DTE Utah Synfuels, L.L.C.'s parent company is DTE Energy Services.

The Division of Air Quality has received the required Name Change Form - 1c and determined it to be completely filled out.

As you requested in your letters, we have noted in our records and from this date forward the holder of the AO:

DAQE-1192-97, dated December 22, 1997, for Carbon County Modification for New Equipment and Production Increase

will be "DTE Utah Synfuels, L.L.C.," parent company "DTE Energy Services," instead of "Covol Technologies, Inc.," or "Headwaters, Inc."

DAQE-928-01

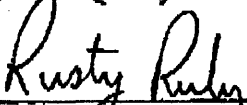
Page 2

The charge for the review done in making this change is a flat fee, as authorized by the legislature. Payment is due upon receipt of the invoice and payment should be sent to the Division of Air Quality.

Thank you for informing DAQ of this process and in advance for your payment. If you have any questions on this matter, please contact Mr. Timothy DeJulis at (801) 536-4012.

Sincerely,

Rick Sprott, Executive Secretary
Utah Air Quality Board


Rusty Ruby, Manager
New Source Review Section

cc: C.C. Patel
Deborah McMurtrie
Susan Weisenberg
Tim Andrus

414 S. Main St., Suite 600
Ann Arbor, Michigan 48104
Tel: (734) 302-4800 Fax: (734) 302-5333



TRANSMITTAL:

To: State of Utah
Division of Air Quality
150 North 1950 West
PO Box 144820
Salt Lake City, UT 84114-4820

Attn: NSR-Name Change Notification
Layne Ashton - Headwaters
Vicky Miller

Ph #: _____

Fax #: _____

Date: 10/22/01

Job No.: _____

Project Name: DTE Utah Synfuels, LLC

Pages w/cover 4

From: Katie Panczak
734-302-8235
DTE Energy Services

Via: USPS Facsimile
 Express Mail / Carrier Email

Action Required:

For your information For your comment
 For your approval Reply Requested

Attached is the Ownership Change / Company Name Change Notification Request. Please feel free to contact me with any questions.

Thanks,
Katie Panczak



Ownership Change/Company Name Change Notification

The following information is necessary before the Division will be able to make the name change you have requested. Please return this document within 30 days of receipt.

Please be aware that all records associated with this company will change to the new name unless you specifically indicate otherwise. The fee assessed for making these changes is authorized by the legislature for the actual time spent by the reviewer.

Note: If this name change is the result of a sale or acquisition, both the buyer & the seller must sign this document as proof of the closure of the agreement.

Reason for Ownership Change/Company Name Change
Facility Purchase

Company Name

Current	Previous
DTE Utah Synfuels, LLC	Headwaters Incorporated (Covol Technologies)
Parent Company: DTE Energy Services	Parent Company:

Company Address

Current	Previous
414 S. Main Street Suite 600 Ann Arbor, MI 48104	11778 South Election Road Suite 210 Draper, Utah 84020

Approval Orders Affected and Sites For Each Approval Order

Approval Order # (DAQE-xx-xxxx)	Site Name & Address (for each Approval Order)
DAQE - 1192 - 97	Carbon County Agglomeration Facility
	Price, UT

The undersigned, as an authorized representative of the company, acknowledges that the above information is correct, and requests that the company name change be made in all Air Quality records. Title V Responsible Officer?

Present Owner DTE Utah Synfuels, LLC

Kent L. McCargar
Signature

Kent L. McCargar
Name (please print)

VP & Chief Financial Officer
Title

Contact Name & Phone #:

Katie Panczak
Manager of Environmental Affairs
(734) 302-8235

Previous Owner Headwaters Incorporated

Harlan M. Hatfield
Signature

Harlan M. Hatfield
Name (please print)

Vice President
Title

Return to:
State of Utah
Division of Air Quality
Attn: NSR - Name Change Notification
150 North 1950 West
PO Box 144820
Salt Lake City, Utah 84114-4820



Utah!

Where ideas connect

Department of Environmental Quality
Division of Air Quality

Michael O. Leavitt
Governor
150 North 1950 West
P.O. Box 144820
Salt Lake City, Utah 84114-4820
(801) 536-4099 Fax

Dianne R. Nielson, Ph.D.
Executive Director
(801) 536-4414 T.D.D.
www.deq.utah.gov

Richard W. Spratt
Director

Original → legal.
cc: Synfuel file (thru to
↳ ext. 2.1
Panczak.
Author
Brunnes
Kobzary

DAQE-AN1819005-03

March 14, 2003

Katherine Panczak
Manager of Environmental Affairs
DTE Utah Synfuels
414 S Main St., Suite 600
Ann Arbor, Michigan 48104

Dear Ms. Panczak:

Re: Approval Order: Modification of Approval Orders DAQE-0031-97 and DAQE-1192-97, By
Increasing Production, Carbon County – CDS SM; ATT, NSPS, HAPs, TITLE V MINOR
Project Code: N1819-005

The attached document is the Approval Order (AO) for the above-referenced project.

Future correspondence on this Approval Order should include the engineer's name as well as the DAQE number as shown on the upper right-hand corner of this letter. Please direct any technical questions you may have on this project to Mr. Tim De Julis. He may be reached at (801)536-4012.

Sincerely,

Richard W. Spratt, Executive Secretary
Utah Air Quality Board

RWS:TD:re

cc: Southeastern Utah District Health Department
Mike Owens, EPA Region VIII

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STATE OF UTAH
Department of Environmental Quality
Division of Air Quality

**APPROVAL ORDER: MODIFICATION OF APPROVAL
ORDERS DAQE-0031-97 AND DAQE-1192-97, BY
INCREASING PRODUCTION**

Prepared By: Tim De Julis, Engineer
(801) 536-4012
Email:tdejulis@utah.gov

APPROVAL ORDER NUMBER

DAQE-AN1819005-03

Date: March 14, 2003

DTE Utah Synfuels
Source Contact
Katherine Panczak
(734) 302-8235

Richard W. Sprott
Executive Secretary
Utah Air Quality Board

Abstract

DTE Utah Synfuels, L.L.C., a subsidiary of DTE Energy Services (DTE), owner and operator of the coal fines extrusion plant located at 4722 South 2000 East, Price Utah, Carbon County, requests permission to modify their operation as follows: increase production of agglomerated coal fines (synfuel) to 2,000,000 tons per 12-month period, replace outdoor coal handling equipment (raw material feed hopper, finished product feed hopper, raw material sizing screen, and associated conveyors) with similar size and capacity items, apply paving to areas frequently used by haul trucks and front-end loaders to control fugitive dust emissions. In spite of doubling production capacity at this plant, the extensive use of paving materials in operational areas and on haul roads has the effect of reducing estimated emissions from those found in DAQE-0031-97 or DAQE-1192-97.

Carbon County is an attainment area of the National Ambient Air Quality Standards (NAAQS) for all pollutants. New Source Performance Standards (NSPS) apply to this source (40 CFR 60 Subpart A - General Conditions, and Subpart Y - Standards of Performance for Coal Preparation Plants). National Emission Standards for Hazardous Air Pollutants (NESHAP) and Maximum Available Control Technology (MACT) regulations do not apply to this source. Title V of the 1990 Clean Air Act does not apply to this source.

The emissions, in tons per year, will change as follows: PM₁₀ (- 9.50), VOC (+ 0.10).

The changes in emissions will result in the following potential to emit totals: PM₁₀ 9.90, NO_x 30.10, SO₂ 0.20, CO 25.20, VOC 2.70.

The project has been evaluated and found to be consistent with the requirements of the Utah Administrative Code Rule 307 (UAC R307). A public comment period was held in accordance with UAC R307-401-4 and no comments were received. This air quality Approval Order (AO) authorizes the project with the following conditions, and failure to comply with any of the conditions may constitute a violation of this order.

General Conditions:

1. This Approval Order (AO) applies to the following company:

Site Office

DTE Utah Synfuels, L.L.C.
4722 South 2000 East
Price, UT 84501

Phone Number (435) 637-7685
Fax Number (435) 637-7720

Corporate Office Location

DTE Energy Services
414 South Main St. Suite 600
Ann Arbor, MI 48104

(734) 302-4800
(734) 302-4802

The equipment listed in this AO shall be operated at the following location:

4722 South 2000 East, Price, Carbon County

Universal Transverse Mercator (UTM) Coordinate System: UTM Datum NAD27
4,376.00 kilometers Northing, 519.00 kilometers Easting, Zone 12



DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

Don A. Ostler, P.E.
Director

782 North 1460 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870
(801) 538-6146
(801) 538-6016 Fax
(801) 536-4414 T.D.D.
www.deq.state.ut.us Web

cc. Vicky Inman
Layne Ashton-Headwa
Water Quality Board
Legal-origink
K. Panczak
J. Franke

Shaw, P.E.
Chairman

William R. Williams
Vice Chairman

Robert G. Adams
Nam Banker

Ray M. Child, C.P.A.

John R. Cushing, Mayor

Dianne R. Nielson, Ph.D.

Ronald C. Sims, Ph.D.

Douglas E. Thompson, Mayor

J. Ann Wechsler

Don A. Ostler, P.E.
Executive Secretary

November 28, 2001

Katherine A Panczak
DTE Utah Synfuels LLC
Manager Environmental Affairs
414 South Main Street
Ann Arbor, Michigan 48104

Dear Ms Panczak;

Subject: Storm Water Permit Renewal; Permit No. UTR000421

Enclosed is your official copy of the *General Multi-Sector Permit for Storm Water Discharges Associated with Industrial Activity*. You have been re-assigned permit No. UTR000421. Please refer to this number in all future correspondence.

To reduce delays the permit has been drafted to cover facilities and authorize storm water discharges automatically upon submission of the notice of intent (NOI) and payment of fees. This may cause some facilities to acquire coverage and be responsible for permit conditions before obtaining a copy of the permit. A Storm Water Pollution Prevention Plan (SWP3) is required in this permit. Maintaining a current copy of the SWP3 at the site is a compliance condition of this permit. Visual or analytical monitoring is also required. Please review the portion of the permit that contains these compliance issues if you are unfamiliar with them so that you can avoid compliance and enforcement problems.

Storm water discharge monitoring report (SWDMR) forms are enclosed for you to record your monitoring results. Remember, analytical monitoring must be submitted, visual monitoring must be filed in your storm water files. If you are not required to do analytical monitoring you may use the enclosed forms for recording your visual storm water monitoring for your own files.

In order to better handle the work load we have issued coverage so that different sectors will expire each year for five years. Group 4 includes your sector (sectors A,B,C,D,G,H,M,T, and W), in group 4 you will need to submit a renewal NOI by December 1, 2006. If you have any questions please call me at 538-7020.

Sincerely,

T. J. Hegzlit, Environmental Scientist
Permits & Compliance Section

Enclosure

cc: Claron Bjork, Southeastern Utah District Health Department, w/NOI only.
David Ariotti, Southeast District Engineer, w/NOI only.