Permit Application for the Wellington Dry-Coal Cleaning Facility

BRC Wellington, LLC
Louisville, Kentucky

October 2013
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<td>Property Warranty Deeds</td>
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<td>1-4</td>
<td>Zoning and Conditional Use Permit Information</td>
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<td>1-5</td>
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<td>2-1</td>
<td>Pre-Disturbance Photographs</td>
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<td>Published Soil Survey Information</td>
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<td>Biological Survey of the Permit and Adjacent Areas</td>
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<td>3-2</td>
<td>Resume of Project Biologist</td>
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<td>4-1</td>
<td>Class I Cultural Resource Inventory</td>
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<tr>
<td>4-2</td>
<td>Utah Division of Air Quality Approval Order</td>
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<tr>
<td>4-3</td>
<td>Resume of Individual Conducting the Cultural Resource Evaluation</td>
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<td>5-1</td>
<td>Road Certification</td>
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<td>7-1</td>
<td>Monitoring Well Lithologic and Completion Log</td>
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<td>7-2</td>
<td>Water Rights Data</td>
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<td>7-3</td>
<td>Utah Pollutant Discharge Elimination System Permit</td>
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<td>7-4</td>
<td>Storm Water Pollution Prevention Plan</td>
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<td>Spill Prevention, Control and Countermeasures Plan</td>
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<td>7-6</td>
<td>Hydrologic Design Methods</td>
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<td>7-7</td>
<td>Sedimentation Pond Hydrology Calculations</td>
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<td>7-8</td>
<td>Drainage Channel and Culvert Hydrology Calculations</td>
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<td>7-9</td>
<td>Alternate Sediment Control Area Calculations</td>
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<td>8-1</td>
<td>Reclamation Bond Cost Estimate</td>
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<tr>
<td>8-2</td>
<td>Certificate of Insurance</td>
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</tbody>
</table>
CHAPTER 1
LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

1.10 Minimum Requirements

1.1.1 Introduction

This chapter of the Wellington Dry-Coal Cleaning Facility permit application provides information regarding the ownership and control of the permit area. The compliance status of the operator at other locations is also provided herein. The facility covered by this permit application has been in operation since January 2006.

The Wellington Dry-Coal Cleaning Facility (MSHA ID 42-02398 issued 2/10/2005) is used for coal cleaning and is not a coal mine. As a result, some sections of Utah’s coal mine permitting rules do not strictly apply to this site. Given that fact, the prior applicant (Covol Engineered Fuels, LC) and the Utah Division of Oil, Gas and Mining held discussions over a period of several months prior to the submittal of this permit application in order to establish the submittal requirements. Correspondence associated with these discussions is provided in Appendix 1-1.

An environmental compliance assessment was conducted of the Wellington operations in 2006. A copy of the opinion report resulting from that assessment is provided in Appendix 1-2. That report includes copies of environmental permits, plans, policies, and procedures that were in place at the time of the assessment.

This document has been arranged in the format of the R645-301 regulations. For example, Section 1.10 corresponds to R645-301-110, Section 1.1.1 corresponds to R645-301-110.10, Section 1.1.2.2 corresponds to R645-301-112.200, etc.
1.1.2 Identification of Interests

BRC Wellington LLC (hereafter referred to as “BRCW”) is a subsidiary of DB RC Investments II LLC and an affiliate of Bowie Refined Coal LLC and various subsidiaries of Deutsche Bank, as indicated in Figure 1-1. BRCW is the owner of the dry coal cleaning facility located in Carbon County, Utah. Bowie Refined Coal, LLC (“BRC”) is the operator of the facility. Furthermore, BRC is the owner and/or managing member of DB RC Investments I, LLC and DB RC Investments II, LLC. The Deutsche Bank affiliates shown on Figure 1-1 (DB AG Cayman Islands Branch and DBAH Capital) are equity investors only with respect to the BRC companies. The facility is located within Section 14, Township 15 South, Range 10 East, SLBM, approximately 2 miles west of Wellington, Utah.

1.1.2.1 Business Entity

BRCW and BRC are both limited liability companies. The affiliated Deutsche Bank subsidiaries are also limited liability companies.

1.1.2.2 Applicant and Operator

APPLICANT: BRC Wellington LLC
6100 Dutchmans Lane, Suite 900
Louisville, KY 40205
Facility Phone: (435)613-1631
Headquarters Office Phone: (502)584-6022

Payment of abandoned mine land reclamation fees, if any, will be the responsibility of the Managing Member of BRCW. Inquiries regarding the payment of this fee should be directed to this individual at the mailing address and phone number indicated above. The person currently occupying this position is indicated in Section 1.1.2.3.
BRC Wellington LLC  
Dry-Coal Cleaning Facility  

OPERATOR:  
Bowie Refined Coal, LLC  
6100 Dutchmans Lane, Suite 900  
Louisville, KY 40205  
Facility Phone: (435) 613-1631  
Headquarters Office Phone: (502) 584-6022  

1.1.2.3 Officers and Directors  

The directors and officers DB RC Investments I LLC (FEIN 46-1601691), DB RC Investments II LLC (FEIN 46-1613542), and BRCW (FEIN 36-4743889) are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date position was assumed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steve Rickmeier (100%) owner</td>
<td>Managing Member</td>
<td>09/20/2012</td>
</tr>
</tbody>
</table>

The addresses and phone numbers for the officers and directors of DB RC Investments I, LLC, DB RC Investments II, LLC, and BRC are the same as the applicant.

Written correspondence to BRCW or BRC regarding the operations should be addressed to:

Kyle Edwards, Resident Agent  
BRC Wellington LLC  
1865 West Ridge Road  
Wellington, UT 84654  
(435) 613-1631  

INTEGRATED  
SEP 16 2014  
Div. of Oil, Gas & Mining
The directors and officers of BRC (FEIN 46-0911657) are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date position was assumed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steve Rickmeier (100%) owner</td>
<td>Managing Member</td>
<td>09/20/2012</td>
</tr>
</tbody>
</table>

Mr. Rickmeier's ownership of BRC is divided between Rickmeier Advisors, Inc. (FEIN 36-4483193, owning 45% of BRC) and Rickmeier Partners LP (FEIN 35-2202674, owning 45% of BRC). This individual holds the same position and the same ownership percentage in each of the following companies:

- Bowie Refined Management LLC
- BRC Chinook LLC
- BRC Pinnacle LLC
- BRC Rockcrusher LLC
- BRC Greenfuels LLC
- BRC Alabama No. 3 LLC
- BRC Alabama No. 4 LLC
- BRC Alabama No. 5 LLC
- BRC Alabama No. 7 LLC

This individual also has partial ownership, through BRC, in DB RC Investments II, LLC, which then owns 100% of BRC Minuteman LLC and BRC Wellington LLC. The organizational structure of BRC is outlined in Figure 1-1.
The permits and operations held by subsidiary and/or affiliated companies of BRC are indicated in Table 1-1.

Neither Wellington City nor Carbon County required the prior owner of the facility to file development plans prior to construction of the facility. Neither of these local governmental bodies placed reclamation obligations on BRCW or required that BRCW file a reclamation bond. Wellington City issued a Conditional Use Permit to the prior to grant a variance for the height of their loadout silo. A copy of the Conditional Use Permit is provided in Appendix 1-4. The prior owner provided Wellington City with a letter of assurance that they would “lend its financial support and cause [the owner] to manage the coal and residual material located at the facility in accordance with applicable laws.” In this letter, the prior owner also indicated that they would “ensure that [the owner] will remove all coal and residual material location on the property (excluding material used for improvements).” A copy of this letter of assurance is provided in Appendix 1-4. BRCW intends to comply with these commitments.

1.1.2.5 Legal or Equitable Owner of the Surface and Mineral Properties to be Mined

Bowie Refined Coal, LLC is the legal and equitable owner of the entire 30-acre surface parcel included within the permit area (see Appendix 1-3). BRC’s right to enter the property and conduct operations thereon is not the subject of current litigation. There will be no mining at this facility. Thus, the mineral properties will not be affected by the operation. A property ownership map of the permit and adjacent areas is presented as Figure 5-2. No area within the lands to be affected by the facility is under a real estate contract.

1.1.2.6 Owners of Record of Property Contiguous to Proposed Permit Area

The following owners of surface lands are contiguous to the permit boundary:
The locations of these lands relative to the permit area are shown on Figure 5-2A.

1.1.2.7 MSHA Numbers

The MSHA number for the operation is: 42-02398

1.1.2.8 Interest in Contiguous Lands

The applicant neither owns nor controls, directly or indirectly, a legal equitable interest in any lands contiguous to the permit area.
1.1.3 Violation Information

Neither BRCW nor any major stockholder of BRCW having any interest, either legal or equitable, in the Wellington facility have had a State or Federal mining permit suspended or revoked or a security deposited in lieu of bond revoked. No Notices of Non-compliance have been issued within the last 3 years to BRCW or a related entity.

1.1.4 Right-of-Entry Information

The facility is located on lands that are entirely owned by the parent company of the operator (see Appendix 1-3). Hence, no other right of entry is required.

1.1.5 Status of Unsuitability Claims

Since there is no mining at this facility, the issue of unsuitability claims is not applicable.

1.1.6 Permit Term

The following information is presented to identify permit term requirements and stipulations. Operations at the facility began in January 2006 using an air-jig method to process coal-bearing materials. Termination of operations will be determined by economic conditions. The timing of this termination is, therefore, unknown. It is anticipated that the Applicant will operate at the site for a period in excess of 5 years.

The anticipated total acreage to be affected during operations is 30 acres. The permit and adjacent areas have been zoned by Wellington City for “light industrial purposes” (Zone M-1). Permitted uses under this zoning include a variety of industrial and manufacturing operations, as indicated in Appendix 1-4. Since the land occupied by the facility has been zoned for general
industrial use and will be used for that purpose following the cessation of BRCW’s operations, complete site reclamation will not be required (See chapters 4 and 5).

1.1.7 Insurance and Proof of Publication

A certificate of Insurance issued to BRC is provided in Appendix 8-2. A copy of the newspaper advertisement is provided in Appendix 1-5 indicating that the application has been submitted to DOGM and is available for public comment.

1.1.8 Filing Fee

The permit filing fee was paid upon submittal of the application.

1.20 Permit Application Format and Contents

The permit application contains clear, concise, current information, in the format of the DOGM regulations.

1.30 Reporting of Technical Data

All technical data submitted in the permit application is accompanied by the names of persons or organizations that collected and analyzed the data. The technical data also contains the dates of collection and analysis of the data, and descriptions of the method used to collect and analyze data, as indicated in subsequent sections of this application. Professionals qualified in the subject, planned or directed the technical analyses. These professionals included the following:

- Richard B. White, P.E. – President/Civil and Environmental Engineer, EarthFax Engineering, Inc. (engineering, hydrology, bonding, alluvial valley floors)
- Ari Menitove – Geological Engineer, EarthFax Engineering, Inc. (geology, soils)
- Chris Jensen – Consultant, Canyon Environmental, LLC (cultural resources, biology)
1.40 Maps and Plans

The maps submitted in this permit application correspond to the format required by the regulations. The entire permit area was developed prior to the initial submittal of this permit application on January 15, 2008.

1.50 Completeness

The Applicant believes the information in this application to be complete and correct.
### TABLE 1-1

<table>
<thead>
<tr>
<th>Entity and State</th>
<th>Permit</th>
<th>Issuing Authority</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BRC Chinook, LLC (Indiana)</strong>&lt;br&gt;FEIN 37-1703437</td>
<td>Permittee on Mine Permit P-06004 (MSHA ID 12-02397 issued 3/23/2007)</td>
<td>Indiana Dept of Natural Resources</td>
<td>Issued</td>
</tr>
<tr>
<td><strong>BRC Chinook, LLC (Indiana)</strong>&lt;br&gt;FEIN 37-1703437</td>
<td>NPDES Permit No. ING040176 (MSHA ID 12-02397 issued 3/23/2007)</td>
<td>Indiana Dept of Environmental Management</td>
<td>Issued</td>
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<tr>
<td><strong>Minuteman (Kentucky)</strong>&lt;br&gt;FEIN 36-4743728</td>
<td>Permittee on Mine Permit 889-8005 (MSHA ID 15-19205 issued 3/21/2008)</td>
<td>Kentucky Division of Mine Permits</td>
<td>Issued</td>
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<tr>
<td><strong>Minuteman (Kentucky)</strong>&lt;br&gt;FEIN 36-4743728</td>
<td>KPDES Permit No. 0107158 (MSHA ID 15-19205 issued 3/21/2008)</td>
<td>Kentucky Division of Water</td>
<td>Issued</td>
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<tr>
<td><strong>Minuteman (Kentucky)</strong>&lt;br&gt;FEIN 36-4743728</td>
<td>Air Permits S-07-145 (MSHA ID 15-19205 issued 3/21/2008) and S-08-039 (MSHA ID 15-19071 issued 12/6/2007)</td>
<td>Kentucky Division of Air Quality</td>
<td>Issued</td>
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<tr>
<td><strong>Minuteman (Kentucky)</strong>&lt;br&gt;FEIN 36-4743728</td>
<td>UIC Permit KYV0047 (MSHA ID 15-19205 issued 3/21/2008)</td>
<td>USEPA Region 4</td>
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<tr>
<td><strong>Minuteman (Kentucky)</strong>&lt;br&gt;FEIN 36-4743728</td>
<td>UIC Permit KYV0053 (MSHA ID 15-19205 issued 3/21/2008)</td>
<td>USEPA Region 4</td>
<td>Issued</td>
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<tr>
<td><strong>BRC Pinnacle, LLC (West Virginia)</strong>&lt;br&gt;FEIN 61-1696678</td>
<td>Operator on Mine Permit No. 0402292 (MSHA ID 46-09146 issued 2/18/2008)</td>
<td>WV Dept of Env. Protection</td>
<td>Issued</td>
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<tr>
<td><strong>BRC Pinnacle, LLC (West Virginia)</strong>&lt;br&gt;FEIN 61-1696678</td>
<td>Air Permit G10-C104 (MSHA ID 09146 issued 2/18/2008)</td>
<td>WV Department of Environmental Protection</td>
<td>Issued</td>
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<tr>
<td><strong>BRC Alabama No. 5, LLC (Alabama)</strong>&lt;br&gt;FEIN 61-1696887</td>
<td>Operator on Mine Permit P3199 (MSHA ID 01-00563 issued 7/1/2008)</td>
<td>Alabama Surface Mining Commission</td>
<td>Issued</td>
</tr>
</tbody>
</table>
Figure 1-1. Organizational Structure of Companies Associated with Bowie Refined Coal, LLC
APPENDIX 1-1
Correspondence Regarding the Permit Application Submittal

EarthFax Engineering, Inc.
September 13, 2004

W. Layne Ashton, Corporate Manager
Covol Engineered Fuels, LC
10653 South Riverfront Parkway, Suite 300
South Jordan, Utah 84095

Re: Preliminary Finding of Proposed Coal Beneficiating Air Processing Facility in Carbon County – Covol Engineered Fuels, LC

Dear Mr. Ashton:

Enclosed please find a memo outlining the Division's preliminary finding concerning Covol's proposed operation in Carbon County, dated August 5, 2004. In order to finalize the finding, we request further information about the 'tolling fee' agreement with Pacificorp. Covol agreed to provide this information in our meeting of July 13, 2004.

Subject to a determination regarding the above noted information, and also subject to the result of an on site Division inspection, the initial determination is that mining activities will not be taking place at this site. Therefore, it does not appear at this time that this project will be subject to regulation under the Utah Coal Mining Act.

Please supply the needed information, and/or contact me if you have further questions at (801) 538-5306 or maryannwright@utah.gov.

Sincerely,

Mary Ann Wright
Associate Director, Mining

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
Mr. Craig D. Galli  
Holland & Hart, LLP  
60 E. South Temple, #2000  
Salt Lake City, Utah 84111-1031

Re: Settlement Negotiations Between Covol Engineered Fuels, LC and the Division of Oil, Gas & Mining

Dear Craig:

Thank you for your hospitality and the use of your offices for taking depositions and the meeting on Monday, October 16, 2006. I also want to thank you for opening the door to possible settlement. I think it is the right thing for both parties and I am very hopeful that this path will be fruitful. Attached is a proposed Stipulation and Joint Motion for Continuance and a proposed Order. Please let me know if they are sufficient and workable.

In an effort to clarify the Division’s expectations and understanding of the agreement reached in the October 16 meeting, the following is an outline of the steps that the Division understands will be taken by both parties over the next few months. This is a summary based on my recollection and notes. As we both acknowledged prior to the discussions, these discussions and the steps set forth below are for settlement purposes only and will not be admissible if this matter proceeds to hearing.

1. Covol will complete an environmental compliance assessment report of the Covol site and share the same with the Division.

2. Covol will also consult with an environmental consultant who will provide a rough outline of an expected permit. As part of the rough outline prepared by Covol’s consultant, the Division understands that the Covol site will have an industrial/commercial post-mining land use that would not require Covol to reclaim the parking lot and road, the plan will ensure removal of coal and coal by-products consistent with the post-mining land use; and Covol will provide a safety for the estimated costs of reclamation of the site.

August 31, 2009  
Div. of Oil, Gas & Mining
3. The Division agrees to structure a permitting process that will take advantage of the background data already gathered by the environmental compliance assessment, nearby permitted sites, and other publicly available sources.

4. You indicated that Covol could provide a brief outline of a proposed permit application within the next four to six weeks. Once Covol provides the brief outline, the Division will review it to ensure that it will contain the essential elements, keeping in mind Covol’s post-mining land use and the background information already available.

6. Once both parties have had an opportunity to review the outline, Covol and the Division expect to be able to enter into a formal settlement agreement and jointly seek dismissal of the case before the Board. If a settlement cannot be agreed upon, the hearing will be rescheduled.

Please let me know if there is something I have missed.

Thank you again,

Steven F. Alder

[Signature]

Attorney for Division of Oil, Gas & Mining

INCORPORATED

August 31, 2009

Div. of Oil, Gas & Mining
## PROPOSED OUTLINE AND INFORMATION:
COVOL WELLINGTON DRY-COAL CLEANING FACILITY
DOG M PERMIT APPLICATION PACKAGE

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<tr>
<th>Section Number and Title</th>
<th>Planned Approach</th>
<th>Anticipated Response</th>
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<tr>
<td><strong>CHAPTER 1 – GENERAL CONTENTS</strong></td>
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<tr>
<td>110 MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE AND RELATED INFORMATION</td>
<td>Gather information from company files and public records.</td>
<td>Required information will be presented in text, tables, maps, etc.</td>
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<tr>
<td>111 Introduction</td>
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<td>112 Identification of Interests</td>
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<td>112.100 Business Entity</td>
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<td>112.200 Applicant and Operator</td>
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<td>112.300 Officers of the Applicant</td>
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<td>112.400 Coal Mining and Reclamation Operation Owned or Controlled</td>
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<td>112.500 Legal or Equitable Owner of the Surface and Mineral Properties</td>
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<td>112.600 Owners of Record of Property Contiguous to Proposed Permit Area</td>
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<td>112.700 MSHA Numbers</td>
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<td>112.900 Certification of Submitted Information</td>
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<td>113 Violation Information</td>
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<td>114 Right-of-Entry Information</td>
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<td>115 Status of Unsuitability Claims</td>
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<td>116 Permit Term</td>
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<td>117 Insurance, Proof of Publication, and Facilities and Structures Used in Common</td>
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<td>118 Filing Fee</td>
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<tr>
<td>120 PERMIT APPLICATION FORMAT AND CONTENTS</td>
<td>Generally follow the outline of the DOGM rules.</td>
<td>Format the document as indicated.</td>
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<tr>
<td>130 REPORTING OF TECHNICAL DATA</td>
<td>Comply with the appropriate rules.</td>
<td>A brief statement will be made committing to complying with the appropriate rules.</td>
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<tr>
<td>140 MAPS AND PLANS</td>
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<td>150 COMPLETENESS</td>
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<td>210 INTRODUCTION</td>
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<td>220 ENVIRONMENTAL DESCRIPTION</td>
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<td>221 Prime Farmland Investigation</td>
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<td>222 Soil Survey</td>
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<td>223 Soil Characterization</td>
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<td>224 Substitute Topsoil</td>
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<td>230 OPERATION PLAN</td>
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<td>231 General Requirements</td>
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<td>232 Topsoil and Subsoil Removal</td>
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<tr>
<td>233 Topsoil Substitutes and Supplements</td>
<td>Gather data from NRCS records and the Savage Coal Terminal MRP.</td>
<td>Briefly describe methods that have been used to segregate and protect topsoil and subsoil. Summarize soil quality based on data obtained from published NRCS documents and the adjacent Savage Coal Terminal.</td>
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<tr>
<td>234 Topsoil Storage</td>
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<td>240 RECLAMATION PLAN</td>
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<td>241 General Requirements</td>
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<td>242 Soil Redistribution</td>
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<td>243 Soil Nutrients and Amendments</td>
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<td>244 Soil Stabilization</td>
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<tr>
<td>250 PERFORMANCE STANDARDS</td>
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<tr>
<td>251 Topsoil, Subsoil, and Topsoil Supplements Management</td>
<td>Commit to handling soil resources consistent with the post-operation land use.</td>
<td>Salvaged soil will be protected from erosion and made available to the future site owner/operator.</td>
</tr>
<tr>
<td>252 Stockpiled Topsoil and Subsoil</td>
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<td>260 PERFORMANCE STANDARDS</td>
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<td>310 INTRODUCTION</td>
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<tr>
<td>320 ENVIRONMENTAL DESCRIPTION</td>
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<tr>
<td>321 Vegetation Information</td>
<td>Gather information from the Utah Division of Wildlife Resources and the permit application package for the adjacent Savage Coal Terminal site.</td>
<td>Only limited biological resources existed on the site prior to disturbance. Briefly summarize pre-disturbance vegetation and wildlife information applicable to the permit area, as obtained from existing sources.</td>
</tr>
<tr>
<td>322 Fish and Wildlife Information</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section Number and Title</td>
<td>Planned Approach</td>
<td>Anticipated Response</td>
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</tr>
<tr>
<td>323 Maps and Aerial Photographs</td>
<td>Describe methods that have been and will continue to be used to protect biological resources during site operations.</td>
<td>The permit area is fenced, substantially reducing the potential that wildlife will be present near and impacted by the operation. It is not anticipated that threatened or endangered species occur in the permit or adjacent areas. As a fenced industrial area of limited size, measures have been taken to keep wildlife out and avoid the industrial hazards that might endanger such species further.</td>
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<td>330 OPERATION PLAN</td>
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<td>331 Measures Taken to Disturb the Smallest Practicable Area</td>
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<td>332 Description of Anticipated Impact of Subsidence</td>
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<td>333 Plan to Minimize Disturbances and Adverse Impacts</td>
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<td>340 RECLAMATION PLAN</td>
<td>Any post-operation plan must be consistent with the post-operation land use.</td>
<td>As a zoned industrial site, the post-operation land use will also be industrial. Significant revegetation is, therefore, not anticipated. The site will be left in a condition appropriate for industrial land use by the new owner/operator.</td>
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<td>341 Revegetation</td>
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<td>342 Fish and Wildlife</td>
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<td>350 PERFORMANCE STANDARDS</td>
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<td>351 General Requirements</td>
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<td>352 Contemporaneous Reclamation</td>
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<td>353 Revegetation: General Requirements</td>
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<td>354 Revegetation: Timing</td>
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<td>355 Revegetation: Mulching and Other Soil Stabilizing Practices</td>
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<td>356 Revegetation: Standards for Success</td>
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<td>357 Revegetation: Extended Responsibility Period</td>
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<td>358 Protection of Fish, Wildlife and Related Environmental Values</td>
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### CHAPTER 4 – LAND USE AND AIR QUALITY

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<tr>
<th>Section Number and Title</th>
<th>Planned Approach</th>
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<tbody>
<tr>
<td>410 LAND USE</td>
<td>Gather information from the County concerning pre-construction land use at the site. Gather information regarding cultural and historical resources in the permit area from the State Historical Preservation Office.</td>
<td>Land use in the permit and adjacent areas has been zoned industrial for several years. No cultural or historical resources are known to exist in the permit or adjacent areas. The area will be left in a state consistent with post-operation industrial land use.</td>
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<td>411 Environmental Description</td>
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<td>412 Reclamation Plan</td>
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<td>413 Performance Standards</td>
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<td>414 Alternative Land Use</td>
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COVOL Preparation Plant Permit Outline
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<tr>
<td>420 AIR QUALITY</td>
<td>Review operational permits obtained from the Utah Division of Air Quality.</td>
<td>Commit to complying with the UDAQ operational permits, a copy of which will be provided in an appendix.</td>
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<td>421 Air Quality Standards</td>
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<td>422 Compliance Efforts</td>
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<td>423 Monitoring Program</td>
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<td>424 Fugitive Control Plan for Production Rates Less than One Million Tons Per Year</td>
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<td>425 Additional Division Requirements</td>
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CHAPTE R 5 – ENGINEERING

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<tbody>
<tr>
<td>510 INTRODUCTION</td>
<td>Gather maps, plans, and designs as needed to provide an overview of operations at the site.</td>
<td>Present information as needed to provide an overview of operations at the site. MSHA regulations are not currently considered applicable to site operations. Commit to the performance of appropriate inspections by a professional engineer or appropriate specialist. Summarize existing COVOL emergency response procedures.</td>
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<tr>
<td>511 General Requirements</td>
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<td>512 Certification</td>
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<td>513 Compliance with MSHA Regulations and MSHA Approvals</td>
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<td>514 Inspections</td>
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<td>515 Reporting and Emergency Procedures</td>
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<tr>
<td>520 OPERATION PLAN</td>
<td>Gather information regarding operation plans as needed to provide a description of applicable facilities.</td>
<td>Since mining is not conducted at this site, several sections of these regulations do not apply to this permit application. Roads within the facility area will be classified and methods for handling and disposing of coal, spoil, and waste will be described. Impoundments that have been constructed on site (i.e., sedimentation and detention basins) will also be described. Information will be presented as appropriate in text and drawings.</td>
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<td>521 General</td>
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<td>522 Coal Recovery</td>
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<td>523 Mining Methods</td>
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<td>524 Blasting and Explosives</td>
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<td>526 Mine Facilities</td>
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<td>527 Transportation Facilities</td>
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<td>528 Handling and Disposal of Coal, Excess Spoil, and Coal Mine Waste</td>
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<td>529 Management of Mine Openings</td>
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<td>530 OPERATIONAL DESIGN CRITERIA AND PLANS</td>
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<td>531 General</td>
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<td>532 Sediment Control</td>
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<td>533 Impoundments</td>
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<td>534 Roads</td>
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<td>536 Coal Mine Waste</td>
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<td>537 Regraded Slopes</td>
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<td>540 RECLAMATION PLAN</td>
<td>Gather information regarding the anticipated post-operation land use. Commit to complying with the applicable regulatory standards.</td>
<td>Since the site will not be operated as a conventional mine, several sections of this regulation do not apply. Narrative, maps, and drawings will be used as needed to present applicable information in a logical manner. The removal of necessary structures to meet post-operation land use requirements will be discussed. The estimated costs of reclaiming the site consistent with the post-operation land use will be referenced (presented in Chapter 8 of this application). The intent of the reclamation plan is to remove coal piles and substantial coal residue, other than that associated with roads and parking areas, to the soil level and regrade to a contour that is consistent with the post-operational land use.</td>
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<tr>
<td>541 General</td>
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<td>542 Narratives, Maps, and Plans</td>
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<td>550 RECLAMATION DESIGN CRITERIA AND PLANS</td>
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<td>551 Casing and Sealing of Underground Openings</td>
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<td>552 Permanent Features</td>
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<td>553 Backfilling and Grading</td>
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**CHAPTER 6 - GEOLOGY**

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<td>610 INTRODUCTION</td>
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<tr>
<td>611 General Requirements</td>
<td>Gather information regarding general geologic conditions within the permit area, using published documents obtained from the U.S. Geological Survey, the Utah Geologic Survey, and other reputable sources.</td>
<td>Since no coal is being mined and no exploration activities are being conducted in the permit area, most of this section of the regulations does not apply. However, a very brief description of geologic conditions at the site will be provided to address this section of the regulations.</td>
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<td>612 Certification</td>
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<td>620 ENVIRONMENTAL DESCRIPTION</td>
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<td>621 General Requirements</td>
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<td>622 Cross Sections, Maps and Plans</td>
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<td>623 Geologic Determinations</td>
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<td>624 Geologic Information</td>
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<td>625 Additional Geologic Information</td>
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<td>626 Sampling Waivers</td>
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<td>627 Description of the Overburden Thickness and Lithology</td>
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<td>631 Casing and Sealing of Exploration Holes</td>
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<td>632 Subsidence Monitoring</td>
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<td>640 PERFORMANCE STANDARDS</td>
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<td>641 Exploration and Drill Holes</td>
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<td>642 Monuments and Surface Markers of Subsidence Monitoring Points</td>
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<tr>
<td>CHAPTER 7 - HYDROLOGY</td>
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<td>The site is situated on a low-lying desert ridge on the relatively impermeable Mancos Shale. Hence, no substantial surface and groundwater resources exist in the vicinity of the permit area. Furthermore, the facility consumes only small quantities of water from the City distribution system, and structures have been installed to retain storm water on site in accordance with an existing storm-water pollution prevention plan. Given these conditions, it is anticipated that the discussion of baseline hydrologic conditions will be brief. The probable hydrologic consequences of operations to be conducted within the permit area will be discussed, but it is anticipated that these consequences will be insignificant. The location of the permit area with respect to a published CHIA will be noted.</td>
</tr>
<tr>
<td>710 INTRODUCTION</td>
<td>Published information regarding surface and groundwater conditions in the vicinity of the permit area will be gathered from the U.S. Geological Survey, the Utah Geological Survey, the Utah Division of Water Rights, the water-quality database maintained by DOGM, etc.</td>
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<td>711 General Requirements</td>
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<td>712 Certification</td>
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<td>713 Inspection</td>
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<td>720 ENVIRONMENTAL DESCRIPTION</td>
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<td>721 General Requirements</td>
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<td>722 Cross Sections and Maps</td>
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<td>723 Sampling and Analysis</td>
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<td>724 Baseline Information</td>
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<td>725 Baseline Cumulative Impact Area Information</td>
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<td>726 Modeling</td>
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<td>727 Alternative Water Source Information</td>
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<td>728 Probable Hydrologic Consequences</td>
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<td>729 Cumulative Hydrologic Impact Assessment (CHIA)</td>
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<td>730 OPERATION PLAN</td>
<td>Gather information regarding operational plans to protect hydrologic resources.</td>
<td>Describe how operations will be conducted to minimize impacts to local hydrologic resources. Present design information to indicate how runoff- and sediment-control structures comply with the regulations. Note that site operations are conducted under an approved storm-water pollution prevention plan.</td>
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<td>731 General Requirements</td>
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<td>732 Sediment Control Measures</td>
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<td>733 Improvements</td>
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<td>734 Discharge Structures</td>
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<td>735 Disposal of Excess Spoil</td>
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<td>736 Coal Mine Waste</td>
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<td>737 Noncoal Mine Waste</td>
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<td>plan. Present this information in text, maps, etc. as necessary. Make note of those sections of the regulations that do not apply to this operation.</td>
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<td>738 Temporary Casing and Sealing of Wells</td>
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<td>740 DESIGN CRITERIA AND PLANS</td>
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<td>741 General Requirements</td>
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<td>745 Disposal of Excess Spoil</td>
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<td>746 Coal Mine Waste</td>
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<td>747 Disposal of Noncoal Mine Waste</td>
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<td>748 Casing and Sealing of Wells</td>
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<td>750 PERFORMANCE STANDARDS</td>
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<td>751 Water Quality Standards and Effluent Limitations</td>
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<td>752 Sediment Control Measures</td>
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<td>753 Impoundments and Discharge Structures</td>
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<td>754 Disposal of Excess Spoil, Coal Mine Waste and Noncoal Mine Waste</td>
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<td>755 Casing and Sealing of Wells</td>
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<td>760 RECLAMATION</td>
<td>Gather information regarding the anticipated post-operation land use.</td>
<td>The site will be left in a condition appropriate for industrial land use by the new owner/operator. Road drainage designs will be reviewed to ensure that they are compatible with long-term industrial use.</td>
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<td>761 General Requirements</td>
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<td>763 Siltation Structures</td>
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<td>764 Structure Removal</td>
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<td>765 Permanent Casing and Sealing of Wells</td>
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<td><strong>CHAPTER 8- BONDING AND INSURANCE</strong></td>
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<td>810 BONDING DEFINITIONS AND DIVISION RESPONSIBILITIES</td>
<td>Estimate the cost to leave the site in a condition that is consistent with the planned post-operation land use. Utilize unit-costs from acceptable sources.</td>
<td>Post-operation use of the site for industrial purposes will likely involve removal of the coal-processing structures, while leaving</td>
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<td>820 REQUIREMENT TO FILE A BOND</td>
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<td>office, warehouse, and storage facilities, along with roads and parking lots. Provide an estimate of the reclamation costs and commit to maintaining an appropriate reclamation bond.</td>
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<td>830 DETERMINATION OF BOND AMOUNT</td>
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<td>840 GENERAL TERMS AND CONDITIONS OF THE BOND</td>
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<td>850 BONDING REQUIREMENTS FOR UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES</td>
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<td>860 FORMS OF BONDS</td>
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<td>870 REPLACEMENT OF BONDS</td>
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<td>880 REQUIREMENTS TO RELEASE PERFORMANCE BONDS</td>
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<td>890 TERMS AND CONDITIONS FOR LIABILITY INSURANCE</td>
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<tr>
<td><strong>CHAPTER 9 - ALLUVIAL VALLEY FLOOR DETERMINATION</strong></td>
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<tr>
<td>302-321.100 Scope of Investigation</td>
<td>Evaluate information to make an alluvial valley floor determination.</td>
<td>The site is not located within or near an alluvial valley floor.</td>
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<tr>
<td>302-321.200 Summary of Studies Performed</td>
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<td>320-321.300 Extent of Alluvial Valley Floors</td>
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March 13, 2007

Mr. Keith Thompson
COVOL Engineered Fuels LC
10653 S. River Front Parkway, Suite 300
South Jordan, Utah 84095
kthompson@headwaters.com

Subject: COVOL Application Outline of Dry-Coal Cleaning Facility/Requirement to Permit and Post Bond

Dear Mr. Thompson:

The Division of Oil, Gas & Mining (Division) has completed a review of the Permit Outline submitted by Covol Engineered Fuels LC (COVOL) in December 2006. In addition, we are responding to telephone requests from you and Mr. Bunderson about Covol accepting coal mine waste for processing, and not just for "test runs" of 1000 cyds. Based on COVOL's plans to bring coal mine waste from other permitted sites, COVOL needs to firmly agree to proceed with permitting, and therefore to formally drop its appeal to the Board of Oil Gas & Mining. In addition, COVOL needs to post a bond for reclamation of the site in the amount of $165,000.

The Division reviewed the application along with the environmental audit submitted by COVOL during discovery. The Division appreciates COVOL's efforts and believes the outline is very close to the permit requirements to which the Division previously agreed. The Division would like to ease the permitting process as much as possible and invites COVOL to discuss this matter in person, by phone, or by letter at any time.

While the permit outline is close, there are several items that still need to be addressed. The following comments correlate with the permit outline chapters:

I. Chapter 1

1) Permit and disturbed area map: include a table with acreages - permit area/disturbed area map.

2) Include map showing adjacent surface landowners.

3) Provide the MSHA Number.

4) Provide ownership and control information.
II. Chapter 2

1) Provide map showing different soil types.
2) Provide surface facilities map showing location of topsoil storage areas.
3) Address how topsoil will be stored and protected.
4) Address where any toxic or acid-forming materials that will be generated, will be placed and handled on site.

III. Chapter 3

1) Address any Threatened and Endangered species (wildlife or vegetation) on or adjacent to the permit area.

IV. Chapter 4

1) The application should include a copy of the Wellington City Agreement for reclaiming the site.
2) Since the land is an industrial site, the reclamation plan should be a clean-up plan of the site, i.e., removal of coal, wood, metal, non-coal waste material and where it will be disposed.
3) Discuss how the buildings will be left.
4) Provide the class III cultural survey on undisturbed area and class I cultural survey for the permit area (paper search). These reports must be in a confidential section of the application.
5) Provide a copy of the SPCC Plan.

V. Chapter 5

1) Provide a surface facility map showing all buildings (permanent structures), refuse piles, coal storage areas, non-coal waste storage areas, P.E stamped.
2) Engineering and Hydrology maps need P.E. certifications.
3) Provide hydrology map showing locations of sediment ponds, diversion ditches, silt fences etc.
4) All temporary and permanent coal mine waste and/or refuse and/or “by-products” pile storage areas need to be addressed. Show on map all refuse storage areas. Explain how is the material handled and disposed?
VI. Chapter 6

N/A

VII. Chapter 7

1) Provide a table of water rights for the facility/water replacement plan.
2) Separate the disturbed area from the undisturbed area and show how water is controlled on the site. (OGM recommends a sedimentation pond to treat all drainage from the disturbed area). Show how structures are designed and for which design event.
3) Include the UPDES permit.
4) Identify all water sources on a map (seeps, springs)—quarterly water sampling program.

VIII. Chapter 8

1) Provide public liability insurance.
2) Provide reclamation cost estimate (if different from $165,000) and post a bond.

Last week, I provided Trace Bunderson of your office with a reclamation cost estimate of $165,000. This amount is based on an average cost estimate per acre from the mining program of $5,000/acre. Immediately posting this amount as a bond, whether cash (CD, LOC, Treasury notes) or surety bond, would allow COVOL to process coal waste from existing permitted sites while COVOL completes the permitting process. Submittal of a completed mine permit application should follow within a reasonable time.

Please contact me at (801) 538-5306 to set up a meeting to review this and other permitting issues as soon as possible. Thank you for your patience and cooperation.

Sincerely,

Mary Ann Wright
Associate Director, Mining

an
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INCORPORATED

August 31, 2009

Div. of Oil, Gas & Mining
Date: April 2, 2007  
Time: 2:00 pm – 3:30 pm  
Location: DNR, “A” Conference Room  

To: Internal File, COVOL, C/007/0045  
From: Pamela Grubaugh-Littig  
Attendants: Keith Thompson, Mike Gipson, Trace Bunderson, Mike Edwards (COVOL)  
Mary Ann Wright, Steve Alder, Pamela Grubaugh-Littig (Division of Oil, Gas and Mining [DOGM])  

Purpose: Review Bonding Questions with COVOL and Answer Questions about March 13, 2007 Letter (To Keith Thompson, COVOL, from Mary Ann Wright, DOGM)  

MEETING SUMMARY:  

Mike Edwards stated that the “bonding” is being worked on. COVOL faxed the bond to the Division on April 2, 2007, but did not use the correct bond form (not the one that Pamela Grubaugh-Littig had sent to Trace Bunderson). Mike said that he would have the bond reissued on the correct form.***  

Mary Ann Wright gave the go-ahead to move ahead when the bond is accepted.  

There are 30 acres “disturbed” area which equals the proposed permit area.  

Steve Alder stated that this is a unique situation for “Reclamation recognizing the postmining land use and current disturbance”. He also stated that Craig Galli should be included in the loop.  

Mike Edwards and Pam and Mary Ann went through each of the chapters outlined in the March 13, 2007 letter. Cultural resources will not be addressed because the area is already disturbed. Priscilla Burton will assist with the soils section and will make a recommendation on planting on the topsoil piles.  

ACTION ITEMS: (Include item, timeline, and responsible person.)
Pam promised to notify Gregg Galecki (Skyline Mine), Rusty Netz (Star Point Waste Fuel), and John Gefferth (Emery Deep Mine), when the bond has been accepted by the Division via a letter to COVOL and copied to the above-noted mines.

COVOL will submit the bond for acceptance by the Division so that operations may proceed. A timetable to submit the permit application was not discussed.

**ADDITIONAL COMMENTS:** (This section is intended to provide attendees the opportunity to contribute additional and significant information concerning the meeting content that may not have been mentioned during the meeting.)

**Mike Edwards called Pamela Grubaugh-Littig on April 3, 2007. He said that COVOL would not be using a surety bond, but was interested in an irrevocable letter of credit. Pamela Grubaugh-Littig e-mailed a sample letter of credit that day to Mike Edwards.**

Pam also advised Mike Edwards that the Public Information Center is open from 8 to 5 workdays if he would like to review that Savage Terminal approved plan. Unfortunately, the Savage plan is not available electronically.

P:\GROUPS\COAL\WP\007045.COV\Meeting Notes April 2 2007.doc
APPENDIX 1-2

Environmental Compliance Assessment
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LIST OF EXHIBITS

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Exhibit 2 CO VOL Environmental Permits and Plans
Exhibit 3 Photographs of CO VOL Facility
Exhibit 4 CO VOL Environmental Policies and Procedures and EMS Program Documents
Exhibit 5 David Wilson Resume
1.0 INTRODUCTION

Upon request of Mr. Craig Galli of Holland and Hart, I have reviewed available environmental compliance documents pertaining to the coal cleaning facility owned and operated by COVOL Engineered Fuels, LLC (COVOL). This facility is located at 1865 West Ridge Road in Wellington (Carbon County), Utah. I also visited the facility on June 27, 2006, to inspect environmental conditions and assess compliance with federal and state environmental regulations. Attending the site visit were representatives from Headwaters: Mr. Keith Thompson (Vice President); Mr. Jeff Hayden (Director of Operations – Coarse Coal Recovery); and Mr. Mike Gipson (Plant Manager – Wellington Plan). Mr. Galli was also present during the site visit.

A summary of my records review, inspection observations, and opinions regarding the compliance status of the COVOL facility is provided herein. This remainder of this report is organized in the following sections:

- Section 2 – Opinions to be Expressed, with Bases and Reasons
- Section 3 – Data and Other Information Considered in Forming Opinions
- Section 4 – Exhibits to be Used to Support Opinions
- Section 5 – Expert Qualifications
- Section 6 – Compensation Paid for Services
- Section 7 - Certification

This report presents Mr. Wilson’s opinions regarding environmental compliance at this COVOL facility, and Headwaters overall approach toward managing its environmental program.
2.0 OPINIONS TO BE EXPRESSED, WITH BASES AND REASONS

The opinions expressed in this section are based on my review of the environmental compliance documents prepared and provided by others, observations during my facility visit, and my environmental compliance experience working with a variety of industrial companies operating in the State of Utah.

**Opinion 1: COVOL has obtained all applicable regulatory permits and operates in a manner consistent with these permits and in accordance with Best Management Practices for its industry.**

**Bases and Reasons for Opinion**

During my inspection of the COVOL facility, I reviewed records, interviewed management personnel, and observed operations at the facility relative to compliance with environmental regulations. Copies of relevant COVOL drawings and environmental permits for the facility are included as Exhibits 1 and 2, respectively, with this report. A selection of photographs taken during my facility visit are included as Exhibit 3.

**Air Quality Compliance**

COVOL began construction of its Wellington facility in July 2005. The work was begun after submitting a Notice of Intent for air emissions and obtaining an Approval Order (DAQE# AN 2952001-05, June 30, 2005) from the Utah Department of Environmental Quality (DEQ), Division of Air Quality (DAQ). This permit identifies the facility as a minor source for emission of fugitive dust, and identifies the approved equipment, air pollution controls, process limitations, and allowable emissions for the facility. Based on my inspection, the facility is operating in accordance with the requirements of its air permit. There is no dust-generating equipment that is not accounted for in the AO, and fugitive dust controls are in place as prescribed in the AO, including a telescoping drop on the primary stacking conveyor, a cover on the shaker screens, and chute controls on some of the smaller stacking conveyers. While not required specifically by the AO, as a best management practice COVOL will install a chute or funnel controls (or equivalent) on the other stackers.

Although COVOL has been operating in trial mode since January 2006, the facility was not fully operational at the time of the visit. However, full-scale operation is expected to occur in Fall 2006. In the interim, COVOL has been operating in full compliance with its AO. The facility
notified the DAQ of its start of construction, and will have completed construction and startup within 18 months of receiving the AO. Furthermore, COVOL has maintained communication with the UDAQ regarding the status of construction and anticipated start of operations. In a letter dated February 16, 2006, COVOL specifically informed the agency that the facility was still under construction, and therefore an emission inventory for 2005 could not be provided. In accordance with the AO (Item 11), COVOL will inform the UDAQ when construction is complete and full-scale operations begin. It is expected that this will occur prior to the 18-month construction period provided in the AO. The inspection observations are based on trial operations, which were occurring at the time of the inspection.

Some visible dust was observed during the visit in the immediate vicinity of some of the conveyor drops, but the opacity limits in the AO appeared to be met for all sources, including process equipment, stacking piles, and haul roads. I observed the baghouse equipment associated with the separation tables, which is required per the AO for emissions control. I also observed the inspection records for the pressure gages used to monitor the drops across the baghouse filters. Other processing equipment also have dust covers, including the single roll crusher, screen, conveyors and radial stackers. The records observed show appropriate inspection intervals and operation of the equipment in accordance with the AO. Photographs taken during the visit are included as Exhibit 3, which show the air quality to be good, even at the equipment processing and drop points, and excellent overall around the facility boundary. Additionally, COVOL has improved the facility roads with a gravel surface and assures adequate water applications to achieve the AO requirements for fugitive dust control. COVOL will pave the road and parking lot in accordance with the AO prior to completing construction.

Storm Water Quality Compliance

COVOL has developed a storm water management program for the facility, which consists of a system for on-site drainage controls, a written Storm Water Pollution Prevention Plan (SWP3), and an employee training program appropriate for its operations. My inspection of the site and the relevant permit documents shows full compliance with the state storm water regulations, and general adherence to best management practices for storm water and erosion control.

The general topography of the site slopes gently from north to south, and storm water is collected from operating areas via excavated drainage channels and culverts. The channels transmit the storm water for...
discharge and storage into two large retention ponds located in the southeast and southwest corners of the property. The basins are designed to provide complete retention of storm water for up to a 24-hour, 25-year storm event. Storm runoff from events larger than this design storm would be detained in the ponds and potentially overflow the ponds at their designed overflow points where water would run off via overland flow to the south into the fields beyond the southern perimeter of the property. This water would eventually percolate into the ground or evaporate prior to reaching the Price River and Miller Creek drainage system. Conditions were dry at the time of the site visit, but signs of storm water capture and retention within the channel and pond system were evident (e.g., visible high water marks, limited channel scour and erosion). Additionally, the facility uses straw bales as need to control the potential migration of sediment within the drainage channels, as well as along the facility perimeter fence.

The controls in place are as described in the SWP3 for the facility, which was prepared by EIS Environmental & Engineering Consulting (EIS), December 2004. This SWP3 addresses the erosion prevention and storm water protection requirements applicable to both construction and operational phases of the facility. During the construction and startup phases at the facility, COVOL has performed development activities under a UPDES Construction General Storm Water Permit (No. UTR101180), which was submitted to the Utah DEQ, Division of Water Quality (DWQ). COVOL and its consultant EIS also prepared a Notice of Intent (NOI) for a Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activities for COVOL and will operate under this General Permit (No. UTR000000) upon completion of construction activities. During construction activities, COVOL has maintained correspondence with the DWQ to advise them of the expected schedule for facility completion, and the expected time frame to begin quarterly discharge monitoring and submittal of the Storm Water Discharge Monitoring Reports (SWDMR) required by the permit (COVOL Letter – January 16, 2006). The first SWDMR is expected to be submitted to the DWQ by January 28, 2007.

Spill Prevention Control and Countermeasures

The COVOL facility maintains one above ground storage tank (AST) with a capacity for up to 8,500 gallons of diesel fuel, which is used for on-site vehicle fueling. The facility also stores other hydrocarbon liquids (e.g., lubricating and hydraulic oils) in containers and drums of various sizes, with an estimated total storage volume of 500 gallons. I observed that these petroleum liquids are stored in accordance with applicable local,
A Spill Prevention Control and Countermeasures (SPCC) Plan has been prepared for the facility (December 2005), which appropriately describes the source of petroleum on site, potential sources of releases, and controls/countermeasures to minimize impacts to the environment should a release occur. The diesel storage tank and smaller hydrocarbon containers/drums are stored within concrete holding areas with sufficient secondary containment to contain a release in accordance with applicable regulations (40 CFR 112). Additional controls are provided for the transfer operations from trucks to the storage tanks via the drainage and retention system described above for the storm water system. The facility maintains a spill kit within the covered hydrocarbon storage area in the event that sorbent booms or other materials are needed for minor release cleanups. The SPCC Plan describes the facility training, inspection and reporting programs; and, I observed COVOL’s inspection records. In my opinion, the facility has a sound program for identifying potential release risks and remedying them before impacts occur to the environment.

**Waste Management**

COVOL generates the following types of solid wastes, but does not generate any hazardous wastes:

- General office and industrial waste, which is placed in dumpsters and ultimately transported for disposal at the East Carbon Development Company (ECDC) Landfill;

- Spent fluorescent light bulbs, which are managed as universal waste and transported for disposal at the ECDC Landfill; and

- Used oil is not stored on site. Used oil from the servicing of vehicles and equipment is removed from the site by Wheeler Machinery Co.

The solid waste containers (i.e., dumpsters) were observed during the inspection to be in good condition with lids to minimize storm water collection in the containers. There is also a roof over the waste oil containment area, which is consistent with best management practices to prevent potential losses from rain water.
No other hazardous or solid waste requirements or best management practices apply to the COVOL Operations, including permitting, manifests, record keeping, RCRA biannual reporting, and TRI reporting.

**Opinion 2: COVOL operates under an environmental management system (EMS) that strives for continual improvement in protecting human health and the environment, which extends beyond the general compliance requirements.**

**Bases and Reasons for Opinion**

The COVOL facility, as part of the Headwaters company, operates under the policies and procedures of the parent company. Headwaters has developed a written “Environmental Compliance Policies and Procedures.” A copy of this document and other Environmental Management System (EMS) program developed by Headwaters and COVOL are attached as Exhibit 4.

The Headwaters Environmental Compliance Policies and Procedures (ECPP) document was prepared by the company to “advance [its] Vision Statement through the adoption of a strong and thoughtful Environmental Compliance Policy statement. “Headwaters Vision Statement” includes the following:

Headwaters Incorporated creates value through environmentally responsible energy, chemical products and services, and developing innovative value-added opportunities for customers.

The ECPP also serves as a guide to the company’s environmental compliance group and facilities’ operations staffs by providing standard procedures and policies to help achieve company environmental standards and regulatory compliance. The content of the ECPP incorporates the following major topics:

I. Introduction
   Vision Statement
   Purpose
   Scope

II. Environmental Compliance Policy

III. Organization and Responsibilities
   Environmental Staff
   Facility Managers
   Laboratory Managers

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August 31, 2009

Div. of Oil, Gas & Mining
IV. Corporate Environmental Audit Program
   Corporate Environmental Audit Program
   Audits

V. Information Management

VI. Planning and Permitting
   Air Programs and Permits
   Water Programs – NPDES and Others
   Solid Waste Management and Disposal Permits
   SARA Title III – Community Right-to-Know
   Hazardous Wastes
   Universal Waste
   SPCC – Oil Spill Prevention
   Used Oils
   Toxic Substances Control Act (TSCA)

VII. Training

VIII. Emergency Preparedness and Response

IX. Communications
   Internal Communications
   Corporate-Facility Information Transfer
   Internal Facility Communication
   Media Communications

X. Regulatory Audits/Inspections

Headwaters and COVOL are working to assure the utility and application of the ECPP through a formal audit/inspection program and development of an Environmental Management Information System (EMIS). The audits/inspections are performed at least annually at each Headwaters facility. A full copy of the Headwaters “Operations Review Checklist” used during the inspection is provided in Exhibit 4. The audit program includes assessment of the issues listed below:

1. General Housekeeping
2. Liquid Materials Management
3. Solid Materials and Product Management
4. Vehicle Fueling and Preventive Maintenance
5. Dust Control
6. Waste Management and Reduction
7. Spill Response
8. Container and Equipment Labeling
9. Monitoring, Sampling, and Inspections

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10. Recordkeeping
11. Planning and Training
12. Reporting

The EMIS is used to monitor and track regulatory compliance obligations and requirements for the Headwaters' facilities. The system is being configured to operate within a computer software application called Enverity. Upon completion of the system, this tool will assist the COVOL Plant manager and staff in tracking specific tasks to assure environmental compliance at the Wellington Plant. A draft document titled, “Enverity EMIS Configuration Document,” shows the preliminary compliance requirements and data to be input into the COVOL Plant's EMIS. A copy of this document is included in Exhibit 4.
3.0 DATA AND OTHER INFORMATION CONSIDERED IN FORMING OPINIONS

I have reviewed the following documents in preparing my opinions, and referenced the following particular documents in this report:

- Déjulis, Tim, November 9, 2005. Email to Covol from UDEQ: “Paved Roads at Wellington Plan.”
- EIS Environmental & Engineering Consulting, December 2004. “Storm Water Pollution Prevention Plan and NOI Storm Water Discharges Associated with Construction Activities and NOI Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities.”
- UDEQ, June 30, 2005. “Approval Order: Modification of Approval Order DAQE#AN 2952001-03 by Adding Equipment.:”
### 4.0 EXHIBITS TO BE USED TO SUPPORT OPINIONS

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<td>Exhibit 5</td>
<td>David Wilson Resume</td>
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</tbody>
</table>
5.0 EXPERT QUALIFICATIONS

David S. Wilson is currently a Principal for ERM-Rocky Mountain, Inc., which is a member company of the Environmental Resources Management (ERM) Group. ERM is a world-wide environmental consulting company with approximately 2,500 employees in more than 120 offices and 30 countries.

Mr. Wilson manages ERM’s Salt Lake City, Utah Office and directs most Utah projects, and oversee all administrative and business development activities. Mr. Wilson is a registered Professional Engineer in the State of Utah (License No. 189076-2202), and a registered Professional Geologist in the State of Utah (License No. 189076-2250). He is an UST Certified Consultant in the State of Utah (Certificate No. CC 72). He has a Masters Degree in Civil Engineering from Drexel University in Philadelphia, Pennsylvania (1993), and a Bachelors Degree in Geological Engineering from the University of Utah in Salt Lake City, Utah (1988). A resume for Mr. Wilson is included as Exhibit 3.

Mr. Wilson has more than 18 years experience in environmental and geotechnical engineering, including work in environmental compliance and permitting, site assessments and investigations, conceptual and final engineering design, and construction engineering services. His compliance expertise includes hazardous and solid waste management, wastewater and storm water, and air quality. He has performed environmental numerous environmental compliance audits and regulatory assessments, and developed regulatory permit applications and Notices of Intent (NOIs) for all environmental media. He has managed client programs in waste management, pollution prevention/ waste minimization, hazardous materials inventories, and other environmental permitting projects. Compliance work has included U.S. projects required under CERCLA, RCRA, UST/ LUST programs, Clean Water Act, Clean Air Act, TSCA, and other federal, state and local regulations, as well as international projects in Latin America.

He has previously testified in deposition and trial as an expert on one occasion for an environmental impacts case.
6.0 COMPENSATION PAID FOR SERVICES

My rate for this case is $165 per hour, plus reimbursement of out-of-pocket expenses.
7.0 CERTIFICATION

I submit that the opinions rendered herein are my own, and that they are based on my personal review of the available documents and my relevant experience as an environmental consultant.

Respectfully submitted,

[Signature]

David S. Wilson, P.E., P.G.
Principal
ERM - Rocky Mountain, Inc.

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
Exhibit 1
Drawings of COVOL Facility
Exhibit 2
COVOL Environmental Permits and Plans

1. DAQ Approval Order for COVOL
2. COVOL Letter to DAQ – August 5, 2005
3. COVOL Letter to DAQ – February 16, 2006
4. Storm Water Pollution Prevention Plan and NOIs for Construction and Industrial Activities
5. COVOL Letter re: Storm Water Permit – January 16, 2006
6. Spill Prevention Control and Countermeasure Plan
June 30, 2005

Keith Thompson
COVOL Engineered Fuels LLC
10653 South Riverfront Parkway, Suite 300
Sandy, Utah 84095

Dear Mr. Thompson:

Re: Approval Order: Modification of Approval Order DAQE# AN2952001-03, by Adding Equipment and Increasing Blended Coal Production, Carbon County – CDS B ATT; NSPS; TITLE V Minor Project Code: N2952-003

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,

[Signature]

Richard W. Spratt, Executive Secretary
Utah Air Quality Board

RWS/TD:re

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

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
STATE OF UTAH

Department of Environmental Quality

Division of Air Quality

APPROVAL ORDER: Modification of Approval Order
DAQE# AN 2952001-03 by Adding Equipment

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

APPROVAL ORDER NUMBER

DAQE-AN2952003-05

Date: June 30, 2005

COVOL Engineered Fuels LLC
Source Contact
Keith Thompson
(801) 984-9400

Richard W. Sprott
Executive Secretary
Utah Air Quality Board

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
Abstract

Covel Engineered Fuels, LC (CEF), proposes to modify the existing, blended coal preparation plant in Wellington, Carbon County, by adding equipment items, and increasing annual production. The plant will process as much as 1,500,000 tons of coal per year, utilizing crushers, screens, and air tables to create three different quality, blended coal products. 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, and Subpart Y). 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 applies to this minor source. This source does not require a Title V operating permit.

The emissions, in tons per year, will change as follows: PM$_{10}$ (+ 7.12).

The changes in emissions will result in the following, in tons per year, potential to emit totals: PM$_{10}$ = 7.91

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:

   Corporate Office Location
   Covel Engineered Fuels, LC
   10653 South Riverfront Parkway, Suite 300
   Sandy, Utah 84095

   Phone Number (801) 984-9400
   Fax Number (801) 984-9460

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

   1865 West Ridge Road, Wellington, Carbon County

   Universal Transverse Mercator (UTM) Coordinate System: UTM Datum NAD27
   4,374.55 kilometers Northing, 520.27 kilometers Easting, Zone 12

2. All definitions, terms, abbreviations, and references used in this AO conform to those used in the Utah Administrative Code (UAC) Rule 307 (R307), and Title 40 of the Code of Federal Regulations (40 CFR). Unless noted otherwise, references cited in these AO conditions refer to those rules.

3. The limits set forth in this AO shall not be exceeded without prior approval in accordance with R307-401.

INTEGRATED
August 31, 2009
Div. of Oil, Gas & Mining
4. Modifications to the equipment, or processes approved by this AO that could affect the emissions covered by this AO must be reviewed, and approved in accordance with R307-401-1.

5. All records referenced in this AO, or in applicable NSPS, which are required to be kept by the owner/operator, shall be made available to the Executive Secretary or Executive Secretary’s representative upon request, and the records shall include the two-year period prior to the date of the request. Records shall be kept for the following minimum periods:

   A. Emission inventories
      Five years from the due date of each emission statement or until the next inventory is due, whichever is longer.

   B. All other records
      Two years

6. CEF shall install the various coal preparation equipment items listed in condition 8, and shall conduct its operations of the coal preparation plant in accordance with the terms, and conditions of this AO, which was written pursuant to CEF’s Notice of Intent submitted to the Division of Air Quality (DAQ) on February 9, 2005, and additional information submitted to the DAQ on February 17, 2005, March 4, 2005, March 7, 2005, March 9, 2005, March 11, 2005, March 15, 2005, April 8, 2005, April 13, 2005, April 15, 2005, and April 19, 2005.

7. This AO shall replace the AO (DAQE-AN2952001-03) dated December 18, 2003.

8. The approved installations shall consist of the following equipment (or equivalent*):

   A. Coal handling/ Preparation Equipment
      40 CFR 60 Subpart Y
      One (1) Crusher
      One (1) Screen
      Two (2) Feed Hoppers
      Three (3) Air Tables
      Various Conveyor belts, or Radial Stacking Devices

   B. Three (3) Fabric Filter Baghouses

   C. One (1) Material Storage Silo
      Capacity: 200 tons

   D. Various Off-highway Equipment items
      ** Front-end Loaders

   * Equivalency shall be determined by the Executive Secretary.

   ** This equipment is listed for informational purposes only.

9. The three baghouses shall control process streams from the air cleaning tables. All exhaust air from the air cleaning tables shall be routed through one of the three baghouses before being vented to the atmosphere. All filtered material collected within each
baghouse shall discharge to an enclosed conveyance device. The fabric filters installed in each baghouse shall have porosity of 0.5 micrometers, or use equivalent technology as determined by the Executive Secretary.

10. A manometer or magnehelic pressure gauge shall be installed to measure the differential pressure across the fabric filters in each baghouse. Static pressure differential across the fabric filter shall be between 1.5 to 6.0 inches of water column. The pressure gauge shall be located such that an inspector/operator can safely read the indicator at any time. The reading shall be accurate to within plus or minus 1.0 inches water column. The instrument shall be calibrated according to the manufacturer's instructions at least once every 12 months. Intermittent recording of the reading is required on a once per operational day basis.

11. CEP shall notify the Executive Secretary in writing when the installation of the equipment listed in Condition #8 has been completed and is operational, as an initial compliance inspection is required. To insure proper credit when notifying the Executive Secretary, send your correspondence to the Executive Secretary, attn: Compliance Section.

If construction and/or installation has not been completed within eighteen months from the date of this AO, the Executive Secretary shall be notified in writing on the status of the construction and/or installation. At that time, the Executive Secretary shall require documentation of the continuous construction and/or installation of the operation and may revoke the AO in accordance with R307-401-11.

Limitations and Tests Procedures

12. Visible emissions from the following emission points shall not exceed the following values:

A. All crushers - 15% opacity
B. All screens - 10% opacity
C. All conveyor transfer points - 10% opacity
D. All baghouse exhaust stacks - 10% opacity
E. All other points - 20% opacity

Opacity observations of emissions from stationary sources shall be conducted according to 40 CFR 60, Appendix A, Method 9.

For sources that are subject to NSPS, opacity shall be determined by conducting observations in accordance with 40 CFR 60.11(b) and 40 CFR 60, Appendix A, Method 9.

13. The following limit shall not be exceeded:

1,500,000 tons of coal processed per rolling 12-month period

To determine compliance with a rolling 12-month total the owner/operator shall calculate a new 12-month total by the twentieth day of each month using data from the previous 12
months. Records of production shall be kept for all periods when the plant is in operation. Coal production shall be determined by examination of CEF billing records, and/or weight receipts. The records of coal production shall be kept on a daily basis.

Roads, and Fugitive Dust

14. The facility shall abide by all applicable requirements of R307-205 for Fugitive Emission and Fugitive Dust sources.

15. Visible fugitive dust emissions from haul-road traffic and mobile equipment in operational areas shall not exceed 20% opacity. Visible emissions determinations for traffic sources shall use procedures similar to Method 9. The normal requirement for observations to be made at 15-second intervals over a six-minute period, however, shall not apply. Six points, distributed along the length of the haul road or in the operational area, shall be chosen by the Executive Secretary, or the Executive Secretary's representative. An opacity reading shall be made at each point when a vehicle passes the selected points. Opacity readings shall be made 1/2 vehicle length, or greater behind the vehicle, and at approximately 1/2 the height of the vehicle, or greater. The accumulated six readings shall be averaged for the compliance value.

16. All unpaved operational areas that are used by mobile equipment shall be water sprayed, and/or chemically treated to control fugitive dust. An application of water, or chemical treatment shall be used. Treatment shall be of sufficient frequency, intensity, and duration to maintain the surface material in a damp/moist condition unless it is below freezing. The opacity shall not exceed 20% during all times the areas are in use. If chemical treatment is to be used, the plan must be approved by the Executive Secretary. Records of water, and/or chemical treatment shall be kept for all periods when the plant is in operation. The records shall include the following items:

A. Date
B. Number of treatments made, dilution ratio, and quantity
C. Rainfall received, if any, and approximate amount
D. Time of day treatments were made
E. Records of temperature if the temperature is below freezing.

17. The in-plant haul roads shall be paved, and shall be periodically swept, or sprayed clean as dry conditions warrant, or as determined necessary by the Executive Secretary. Records of cleaning paved roads shall be kept for periods the plant is in operation. The records shall include the following items:

A. Date of cleaning(s)
B. Time of day cleaning(s) were performed

18. The haul road shall not exceed 0.69 miles in combined length, and the vehicle speed along the haul road shall not exceed 10 miles per hour.
19. The storage piles shall be watered to minimize generation of fugitive dusts, as dry conditions warrant, or as determined necessary by the Executive Secretary. Records of water, and/or chemical treatment shall be kept for all periods when the plant is in operation.

20. All conveyors, and radial stacking devices shall be covered, or enclosed along their length. The radial stacker conveyor drop, the truck loading chutes at the product storage silo, and the alternate product loading hopper shall be equipped with telescoping discharge tubes.

**Federal Limitations and Requirements**

21. In addition to the requirements of this AO, all applicable provisions of 40 CFR 60, New Source Performance Standards (NSPS) Subpart A, 40 CFR 60.1 to 60.18, and Subpart Y, 40 CFR 60.250 to 60.254 (Standards of Performance for Coal Preparation Plants) apply to this installation.

**Records & Miscellaneous**

22. At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any equipment approved under this Approval Order including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Executive Secretary which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source. All maintenance performed on equipment authorized by this AO shall be recorded.


The Executive Secretary shall be notified in writing if the company is sold or changes its name.

This AO in no way releases the owner or operator from any liability for compliance with all other applicable federal, state, and local regulations including R307.

A copy of the rules, regulations and/or attachments addressed in this AO may be obtained by contacting the Division of Air Quality. The Utah Administrative Code R307 rules used by DAQ, the Notice of Intent (NOI) guide, and other air quality documents and forms may also be obtained on the Internet at the following web site:

http://www.airquality.utah.gov/

The annual emissions estimations below include point source, fugitive dust, and road dust emissions, and do not include fugitive emissions, tail pipe emissions, or grandfathered emissions. These emissions are for the purpose of determining the applicability of Prevention of Significant Deterioration, non-attainment
area, maintenance area, and Title V source requirements of the R307. They are not to be used for determining compliance.

The Potential To Emit (PTE) emissions for CEF’s Wellington coal preparation plant are currently calculated at the following values:

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Tons/yr</th>
</tr>
</thead>
<tbody>
<tr>
<td>PM_{10}</td>
<td>7.91</td>
</tr>
</tbody>
</table>

Approved By:

Richard W. Spratt, Executive Secretary
Utah Air Quality Board

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
August 5, 2005

Richard W. Sprott, Director
Division of Air Quality
150 North 1950 West
P. O. Box 144820
Salt Lake City, Utah 84114-4820

Re: Construction Initiation Notification
Covol Engineered Fuels, LLC; DAQE-AN2952003-05
Wellington, Utah Coal Cleaning Facility

Dear Mr. Sprott:

On June 30, 2005 Covol Engineered Fuels, LLC received Approval Order (AO) number DAQE-AN2952003-05 for its coal cleaning facility to be located in Wellington, Utah near Price. The applicable requirements in the AO include 40 CFR Part 60, Subparts A and Y, General Provisions and Standards of Performance for Coal Preparation Plants, respectively.

40 CFR 60.7(a)(1) requires that once construction on an affected facility has been initiated, notification must be provided within 30 days. This letter fulfills this requirement for the coal cleaning facility in Wellington, Utah. On July 18, 2005 construction was initiated on the facility.

Once construction has been completed and initial startup takes place, the required initial startup notification will be made in a timely manner. In the mean time, if there are any questions please call me at (801) 984-3777.

Sincerely,

[Signature]

Steven P. Van Ootegham
Regional Environmental Manager

cc: Keith Thompson/Covol Engineered Fuels, LLC
Ron Sherbak/Covol Engineered Fuels, LLC
February 16, 2008

Ms. Deborah McMurtrie  
Utah Department of Environmental Quality  
Division of Air Quality  
150 North 1950 West  
PO Box 144820  
Salt Lake City, Utah 84114-4820

RE: Annual Emission Inventory  
Covol Engineered Fuels, LLC Wellington Utah Coal Cleaning Facility

Dear Ms. McMurtrie:

Thank you for taking the time with me this morning to discuss the annual emission inventory for the above mentioned facility. As we discussed, an annual emission inventory for 2005 is not required because this facility is still under construction and not yet in production. We will make the appropriate written notification(s) when production begins, as required by 40 CFR 60.7(a)(3).

As you suggested, I spoke with our permit writer, Tim DeJulius about the designation of the facility as a Part 70 source and, therefore subject to Title V fees. As I suspected, this is the case because of the applicability of the NSPS for Coal Preparation Plants (Subpart Y). The Form A that we received is correct with respect to the regulatory status of the facility.

For future reference and to ensure that mailings arrive timely, please send correspondence directly to the facility or to me at the same South Jordan address. If there are any questions or concerns, please call me at (801) 984-3777.

Sincerely,

Steven P. Van Ooteghem  
Regional Environmental Manager

cc: Tim DeJulius/UDAQ (by FAX)  
Keith Thompson/Headwaters Energy Services  
Ron Sierbakk/Headwaters Energy Services  
Mike Gipson/Wellington Plant

INTEGRATED ENVIRONMENTAL SERVICES  
10653 South River Front Parkway, Suite 300, South Jordan, UT 84095  
Phone: (801) 984-9400  Fax: (801) 984-9410  
Div. of Oil, Gas & Mining
STORM WATER POLLUTION PREVENTION PLAN

and

NOI Storm Water Discharges Associated with Construction Activities

and

NOI Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities

COVOL ENGINEERED FUELS, LC

PREPARED BY:

EIS Environmental & Engineering Consulting

DECEMBER 2004

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
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August 31, 2009

Div. of Oil, Gas & Mining
Section 1.0 General Site Information

COVOL Engineered Fuels, LC (COVOL) is planning to construct and operate a new coal cleaning facility in Carbon County, Utah. The new facility will be located in Section 14, Township 15 South, Range 10 East, Salt Lake Base & Meridian. This facility will be located approximately five miles south of Price, Utah. Refer to the attached Location Map in Appendix A. The facility lies in an undeveloped, rural area on a 30 acre site. Approximately 15 acres will be used for this new operation. The adjacent land on the east, west, and south remains undeveloped. Across the road to the west are coal transfer facilities where coal is stored, loaded, and unloaded for shipment. Across the road and to the north is Carbon County Lumber Company.

The site slopes to the southeast and the surrounding ground consists of native soil with sparse vegetation. The soil is classified as Persayo-Badland Association Soils, which consist of gently sloping and rolling hills, well drained, moderately fine textured and medium textured soils over shale. The area receives approximately 9.5-inches of precipitation annually. The regional groundwater flow is east toward the Price River which lies approximately two miles northeast of the facility. Refer to the Location Map in Appendix A.

This site was previously permitted by Terra Systems Incorporated (TSI). In compliance with the provisions of the Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated 1953, TSI was issued a General Storm Water UPDES Permit UTR101090 on August 20, 2003, for this Wellington Plant Site. COVOL has purchased this site from TSI and will use different processing techniques. COVOL will receive coal from various sources around the Carbon/Emery area. COVOL will take this coal with varying qualities and by using air jigs will improve the final quality. The cleaning facility will be divided into three areas: feedstock material handling and storage systems, coal cleaning equipment, and finished product material handling and storage system. It is anticipated that this facility will process approximately 1,000,000 ton per year.

Feedstock Handling
Incoming coal trucks will be weighed at the truck scale and dump their loads at the truck dump hopper. Refer to the Site Plan in Appendix A. This high ash coal will be moved via conveyors and dumped in the inventory pile with a radial stacker. The radial stacker will be positioned to segregate and pile multiple sources/qualities of coal.

Coal Cleaning
High ash coal will be fed into the feed hopper via a rubber-tired front end loader. This material will be transported by conveyor to a screen for separation. Coarse or oversized material can be processed through the crusheer to be sized to 2" minus. The feed streams (coarse and fine) are then fed into an air jig separation unit where the coal is separated from the rock and ash using air and vibration to perform the separation. The air jig is covered by a hood connected to a bag house (one bag house for each air jig) to prevent any fugitive dust particles from escaping into the atmosphere. Finished product is transferred to an inventory pile or silo via one set of conveyors and the byproduct is transferred to a pile via another set of conveyors. The bag house dust can be combined either with

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the byproduct stream or the finished product stream depending on the required specifications.

**Finished Product Handling**
The finished product may be stored in the silo which is situated over the site haul road. A designated amount of product stored in the silo will be charged into trucks to be shipped to its final destination. Alternately, finished material from a segregated finished product pile may be fed into the product silo via the feed/blending hoppers or be loaded directly into trucks, for transportation, via the truck ramp and hopper.

**Storm Water Pollution Prevention Plan**

It has been determined that the permittee has a regulated storm water discharge as per UAC R317.8. Therefore, conditions governing storm water discharges apply. The permittee shall develop a storm water pollution plan. The receiving water for this facility is the Price River. Refer to Appendix D for Guidelines Associated with Storm Water Discharge from Construction Activities.

**Section 2.0 Content of Plan**

**Section 2.1.1 Pollution Prevention Team**

The facility will be operated two shifts per day. Each shift will have three employees, a shift foreman and two operators. During each shift the pollution prevention team at the facility will be comprised of these three individuals.

The shift foreman will be responsible to coordinate a spill response, oversee good housekeeping and best management practices. His responsibilities will also include monitoring, if required, and ensuring compliance with aforementioned permit. The on shift operators will be required to inspect and maintain all diversion and appurtenant structures to ensure proper control and treatment of storm water runoff prior to leaving the site.

All employees will be properly trained in their various areas and will be given the proper notification numbers and contact personnel to comply with the requirements of the permit. Refer to Section 2.4.1 Employee Training.

**Section 2.2.1 Site Map**

Included in Appendix A is a Site Map showing the proposed surface facilities. Additional features on the map include storm water flow directions, berm, and sediment pond locations. Final engineering on this facility is presently being completed. Surface contours will be modified to direct all surface flows towards the sediment pond located in the southeast corner of the project. If this is not practical, an additional sediment pond may be constructed in the southwest corner of the project. An earthen berm will be constructed to contain all runoff from the site. All surface structures will be located inside the berm. This will prevent any potential contamination from leaving...
the site.

Section 2.2.2 Material Inventory

Description of Potential Pollutant Sources

The potential sources which may reasonably be expected to add pollutants to storm water discharges from the site are those disturbed areas which facilitate the operation. The surface facilities are shown on the Site Plan drawing. The Potential Pollution Sources are listed in the following table.

<table>
<thead>
<tr>
<th>Potential Pollution Source</th>
<th>Potential Pollutants</th>
<th>Likelihood of Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Truck Dump</td>
<td>Coal Fines, Equipment Fuels and Fluids</td>
<td>Low potential, No known spill or leak</td>
</tr>
<tr>
<td>Coal Storage Area</td>
<td>Coal Fines, Equipment Fuels and Fluids</td>
<td>Low potential, No known spill or leak</td>
</tr>
<tr>
<td>Front End Loader</td>
<td>Equipment Fuels and Fluids</td>
<td>Low potential, No known spill or leak</td>
</tr>
<tr>
<td>Conveyor Belt</td>
<td>Coal Fines, Lubricant</td>
<td>Low potential, No known spill or leak</td>
</tr>
<tr>
<td>Silo</td>
<td>Coal Fines, Lubricant</td>
<td>Low potential, No known spill or leak</td>
</tr>
</tbody>
</table>

All runoff will be contained by the berm surrounding the site. This runoff will report to the sediment pond. Coal fines in the storage areas are very fine-grained, therefore some storm events could potentially cause enough surface flow to transport the fines to the sediment pond.

Drainage

The Site Plan drawing provides the drainage direction and the location of the proposed sediment pond and berms. Existing contours, in the southwest corner, would be modified to direct runoff towards the sediment pond or an additional sediment pond may be constructed in the southwest corner of the project. Berms will be constructed to prevent storm water from leaving the site. Runoff from Ridge Road (County Road) will be diverted around the property. The sediment pond will remove pollutants from storm water runoff and will discharge to the south, if necessary. After construction both the berms and sediment pond will be inspected on a quarterly basis to insure that they are operating correctly.

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Div. of Oil, Gas & Mining
### Section 2.3.1 Best Management Identifications (BMP)

<table>
<thead>
<tr>
<th>BMPs</th>
<th>Brief Description of Activities</th>
<th>Implementation of BMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good Housekeeping</td>
<td>Pick-up Trash, Use of absorbent materials to clean up minor spills. Training of staff in cleanup procedures.</td>
<td>Training of staff during annual training or as needed.</td>
</tr>
<tr>
<td>Preventative Maintenance</td>
<td>Maintain sediment control measures. Maintain equipment and machinery. Maintain fuel stations, coal pile and surface drainage.</td>
<td>Inspect and Maintain contours to drain to sediment controls</td>
</tr>
<tr>
<td>Inspections</td>
<td>Quarterly inspection of runoff control measures.</td>
<td>Quarterly Inspections or as needed after storm events.</td>
</tr>
<tr>
<td>Spill Prevention Response</td>
<td>Fuel tanks will be contained. Absorbent materials available for spill clean up.</td>
<td>Clean up or maintain as needed.</td>
</tr>
<tr>
<td>Sediment and Erosion Control</td>
<td>Inspection of pond and berms, at least quarterly or after/during storm event greater than .5 inches.</td>
<td>Sample pond during runoff event. Clean pond when necessary.</td>
</tr>
<tr>
<td>Management of Runoff</td>
<td>Off site runoff diverted around disturbed and storage areas. Disturbed and storage areas treated by sediment pond or berm.</td>
<td>Inspect, maintain and repair as needed.</td>
</tr>
</tbody>
</table>

### Section 2.4.1 Employee Training

Training topics will include, but not be limited to Spill Prevention and Response, Spill Reporting Procedures, Good Housekeeping, Material Management Practices, and Storm Water Sampling Procedures.

Employees will be provided training regarding the prevention and control of spillage of fuels and oils associated with machinery and equipment. Employees will be advised to not overfill fuel tanks while fueling equipment or vehicles. Employees will assist fuel vendors to watch tank gauges and not overfill bulk tanks.
APPENDIX A

DRAWINGS
STATE OF UTAH, DEPARTMENT OF ENVIRONMENTAL QUALITY, DIVISION OF WATER QUALITY
288 North 1460 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870 (801)538-6146

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under the UPDES General Permit No. UTR100000. SEE REVERSE FOR INSTRUCTIONS

Submission of this Notice of Intent constitutes notice that the party(s) identified in Section I of this form intends to be authorized by UPDES General Permit No. UTR100000 issued for storm water discharges associated with construction activity in the State of Utah. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. OPERATOR INFORMATION

<table>
<thead>
<tr>
<th>Name (Main operator):</th>
<th>COVOL ENGINEERED FUELS, LC</th>
<th>Phone: 801-984-9400</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>10653 S. RIVERFRONT PARKWAY</td>
<td>Status of Owner/Operator: P</td>
</tr>
<tr>
<td>City:</td>
<td>SOUTH JORDAN, UT Zip: 84095</td>
<td>Phone: 801-984-9400</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>KEITH THOMPSON</td>
<td></td>
</tr>
</tbody>
</table>

| Name (1st Co-permittee): | | Phone: |
|--------------------------|----------------|
| Address:                 |                |
| City:                    |                |
| Contact Person:          |                |

| Name (2nd Co-permittee): | | Phone: |
|--------------------------|----------------|
| Address:                 |                |
| City:                    |                |
| Contact Person:          |                |

<table>
<thead>
<tr>
<th>Name (3rd Co-permittee):</th>
<th>COVOL ENGINEERED FUELS, LC</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contact Person:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Please copy this form if you have more co-permittees than what is allowed on this form.

II. FACILITY SITE / LOCATION INFORMATION

<table>
<thead>
<tr>
<th>Name:</th>
<th>COVOL ENGINEERED FUELS, LC</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project No. (if any):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Address:</td>
<td>1865 WEST RIDGE ROAD</td>
<td>County: CARBON</td>
</tr>
<tr>
<td>City:</td>
<td>WELLINGTON, UT Zip: 84542</td>
<td></td>
</tr>
<tr>
<td>Latitude:</td>
<td>39.31.27</td>
<td>Longitude:</td>
</tr>
</tbody>
</table>

| Is the facility located on Indian Lands? | (Y or N) N |

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August 31, 2009
Div. of Oil, Gas & Mining
III. SITE ACTIVITY INFORMATION

Municipal Separate Storm Sewer System (MS4) Operator Name:

Receiving Water Body: PRICE RIVER

How far to the nearest water body? 2 MILES

List the Number of any other UPDES permits at the site:

IV. TYPE OF CONSTRUCTION (Check all that apply)


8. ☐ Other (Please list) __________________________________________

V. BEST MANAGEMENT PRACTICES

Identify proposed Best Management Practices (BMPs) to reduce pollutants in storm water discharges: (Check all that apply)


7. ☐ Other (Please list) __________________________________________

VI. ADDITIONAL INFORMATION REQUIRED

Prepared for this site and is to the best of my knowledge in Compliance with State

Project Start Date: 01/01/05

Completion Date: 08/01/05

Estimated Area to be Disturbed: 1.5 Acres

A storm water pollution prevention plan has been prepared and/or Local Sediment and Erosion Plans and Requirements.

(Y or N) Y (A pollution prevention plan is required to be on hand before submittal of the NOI)

VII. CERTIFICATION: I certify under penalty of law that I have read and understand the Part 1B eligibility requirements for coverage under the general permit for storm water discharges from construction activities.

I further certify that to the best of my knowledge, all discharges and BMPs that have been scheduled and detailed in a pollution prevention plan will satisfy requirements of Part 1B, and Part III of this permit.

I certify under penalty of law that this document and all attachments were prepared under the direction or supervision of those who have placed their signature below, in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name (of responsible person for the main operator from first page):

KEITH THOMPSON — V.P. COVOL ENGINEERED FUELS, LC

Signature: __________________________

Print Name (of responsible person for the 1st co-permittee from first page):

Signature: __________________________

Print Name (of responsible person for the 2nd co-permittee from first page):

Signature: __________________________

Print Name (of responsible person for 3rd co-permittee from first page):

Signature: __________________________

Amount of Permit Fee Enclosed: $100.00
APPENDIX C

NOI-MULTI-SECTOR GENERAL PERMIT FOR STORM WATER DISCHARGES
ASSOCIATED WITH INDUSTRIAL ACTIVITIES
STATE OF UTAH, DEPARTMENT OF ENVIRONMENTAL QUALITY, DIVISION OF WATER QUALITY
282 North 1460 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870 (801) 538-6146

NOI Notice of Intent (NOI) for Coverage Under the UPDES General Multi-Sector Storm Water Permit for Discharges Associated with Industrial Activity, Permit No. UTR000000.

INSTRUCTIONS ON BACK PAGE

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by a UPDES permit issued for storm water discharges associated with industrial activity in the State of Utah. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM. A different NOI form is provided for construction activities disturbing over 5 acres.

I. FACILITY OPERATOR INFORMATION

Name: COVOL ENGINEERED FUELS, LC
Address: 10653 S. RIVERFRONT PARKWAY
City: SOUTH JORDAN State: UT Zip: 84095
Phone: 801-984-9400
Facility Contact Person: KEITH THOMPSON
Facility Contact Person Title: VP COVOL ENGINEERED FUELS, LC

II. FACILITY SITE/LOCATION INFORMATION

Name: COVOL ENGINEERED FUELS, LC
Address: 1865 WEST RIDGE ROAD County: CARBON
City: WELLINGTON State: UT Zip: 84542
Latitude: 39.31.27 Longitude: 110.45.58 Quarter: S.E.
Division: 1.4 Township: 1.55 Range: 1.0 E
Site Contact Person: KEITH THOMPSON
Site Contact Person Title: C.E.O.

III. SITE ACTIVITY INFORMATION

Name of Municipality which Operates the Storm Sewer System: ____________
Receiving Water Body: PRICE RIVER

Is there existing quantitative storm water discharge data? 

☐ Yes
☐ No

Is the facility required to do analytical monitoring? (See permit conditions Part V, and Sector monitoring requirements.)

☐ Yes
☐ No

Is the facility required to do visual monitoring? (See permit conditions near the end of applicable Sector(s); Appendix A to AD)

☐ Yes
☐ No

Is the facility required to submit monitoring data or retain it on site?

☐ Submit
☐ Retain on site

Is This a New Facility, or is it an Existing Facility?

☐ New
☐ Existing

If this is an Existing Facility, and the Start-up Date was After Oct. 1992, Please Fill in the Start-up Month:

Month (Jan, Feb., etc.): ____________ Year: ____________

SIC or Designated Activity Code: Primary: 12 2nd: ____________ 3rd: ____________ 4th: ____________

"You Have Other Existing UPDES Permits, Enter Permit #: __________________________

IV. SECTOR IDENTIFICATION: The General Multi-Sector Permit covers all industrial activity that is required by law to be covered by a storm water permit. On the following pages the sectors are listed with a description of the industrial activity that is covered by that sector. Please check each sector that covers industrial activities which occur at your site. The sectors covered in Appendix AD is the catch-all sector and should only be used if positively no other sector covers your industrial activity. If you should select AD, please call the Storm Water Coordinator at DWQ to discuss the need for choosing Sector AD (Non-Classified Facilities)."

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NO

☐ Yes

☐ Yes

☐ (Submit)

☐ (Retain on site)

☐ (New)

☐ (Existing)
IV. SECTOR IDENTIFICATION: The General Multi-Sector Permit covers all industrial activity that is required by law to be covered by a storm water permit. On the following pages the sectors are listed with a description of the industrial activity that is covered by that sector. Please check each sector that covers industrial activities which occur at your site. The sector covered in Appendix AD is the catch-all sector and should only be used if positively no other sector covers your industrial activity. If you should select AD, please call the Storm Water Coordinator at DWP to discuss the need for choosing Sector AD (Non-Classified Facilities).

☐ A. Timber Products Facilities -- establishments generally classified under Standard Industrial Classification (SIC) Major Group 24 that are engaged in cutting timber and pulpwood, merchant sawmills, ath mills, shingle mills, copepeague stock mills, planing mills, and plywood and veneer mills engaged in producing lumber and wood basic materials; and establishments engaged in woodworking or in manufacturing finished articles made entirely of wood or related materials, except for wood kitchen cabinet manufacturers (SIC Code 2434), which are addressed under sector W.

☐ B. Paper and Allied Products Manufacturing Facilities -- facilities engaged in the manufacture of pulp from wood and other cellulose fibers and from rags; the manufacture of paper and paperboard into converted products, such as paper coated off the paper machine, paper bags, paper boxes and envelopes; and establishments primarily engaged in manufacturing bags of plastic film and sheet. These facilities are commonly identified by Standard Industrial Classification (SIC) Major Group 25.

☐ C. Chemical and Allied Products Manufacturing Facilities -- 1) Basic industrial inorganic chemicals (including SIC 281), 2) Plastic materials and synthetic resins, synthetic rubbers, and cellulose and other manmade fibers, except glass (including SIC 282), 3) Soap and other detergents and in producing glycerin from vegetable and animal fats and oils; specialty cleaning, polishing, and sanitization preparations; surface active preparations used as emulsifiers, wetting agents, and finishing agents, including ceramic and rubberized products; and other toilet preparations (including SIC 284), 4) Paints (in paste and ready-mixed form); varnishes, lacquers, enamels and synthetic varnishes, shellac, paint supplies, and varnish removers; paint brush cleaners; and allied paint products (including SIC 285), 5) Industrial organic chemicals (including SIC 286), 6) Nitrogenous and phosphatic fertilizers, mixed fertilizers, pesticides, and other agricultural chemicals (including SIC 287), 7) Industrial and household household adhesives, glues, caulking compounds, sealants, and linoleum, tile, and rubber cement from vegetable, animal, or synthetic plastics materials; explosives; printing ink, including gravure ink, screen process ink, and lithographic; miscellaneous chemical preparations such as fatty acids, essential oils, gelatin (except vegetable), sizes, bluing, laundry soaps, writing and stamp pad ink, industrial compounds, cellulosic solvents, as boiling and heat insulating compounds, metal, oil, and water treatment compounds, waterproofing compounds, and chemical mixtures for foundries with facilities with SIC 289, 8) Ink and paints, including china painting enamels, india ink, drawing ink, platinum paints for buffing wood or leather work, paints for china painting, artists' paints and artists' water colors (SIC 2952, limited to those listed; for others see sectory J), 9) Medicinal chemicals and pharmaceutical products, including the grading and grading and milling of botanicals (including SIC 283).
[*Incorporated*]

August 31, 2009

**Div. of Oil, Gas & Mining**
PART VIII
Permit No.: UTR000000

V. Textile Mills, Apparel and Other Fabric Product Manufacturing Facilities—Textile mill products, of and regarding factories and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broad woven fabrics, narrow woven fabrics, but not apparel fabrics, and carpets and rugs from yarn; processes involved in the dying and finishing of fibers, yarn fabrics, and knit apparel; the integrated manufacturing of knit apparel and other finished articles of yarn; the manufacturing of felt goods (wool), lace goods, nonwoven fabrics; miscellaneous textiles, and other apparel products (generally described by SIC codes 22 and 23). This section also covers facilities engaged in manufacturing finished leather and artificial leather products (SIC 31), except 3111.

W. Furniture and Fixture Manufacturing Facilities—facilities involved in the manufacturing of: wood kitchen cabinets (generally described by SIC code 2434); household furniture (generally described by SIC code 251); office furniture (generally described by SIC code 252); public buildings and related furniture (generally described by SIC code 253); partitions, shelving, lockers, and office and store fixtures (generally described by SIC code 254); and miscellaneous furniture and fixtures (generally described by SIC code 259).

X. Printing and Publishing Facilities—newspaper, periodical, and book publishing or publishing and printing (SIC Codes 2711-2713); book printing (SIC Code 273); miscellaneous publishing (SIC Code 2741); commercial printing, lithographic (SIC Code 275); commercial printing,ogr (SIC Code 2754); commercial printing, not elsewhere classified (SIC Code 2759); manifold business forms, greeting cards, bankbooks, assorted binders and covers, bookbinding and related work, and typesetting (SIC Codes 2761-2791); and, print making and related services (SIC Code 2796).

Y. Rubber and Miscellaneous Plastic Product Manufacturing Facilities—rubber and miscellaneous plastic products manufacturing facilities (SIC Major group 30) and miscellaneous manufacturing industries, except jewelry, silversware, and plated ware (SIC Major group 39, except 3911).

Z. Leather Tanning and Finishing Facilities—leather tanning, curving and finishing (commonly identified by Standard Industrial Classification (SIC) code 311).

Discharges from facilities that make fertilizer solely from leather scraps and leather dust are also covered under this section.

AA. Facilities That Manufacture Metal Products Including Jewelry, Silversware and Plated Ware—fabricated metal products, except machinery and transportation equipment, jewelry, silversware and plated ware (SIC Code 391).

AB. Facilities That Manufacture Transportation Equipment, Industrial or Commercial Machines—transportation equipment, industrial or commercial machinery manufacturing facilities (commonly described by SIC Major Group 35 except SIC 357, and SIC Major Group 37, except SIC 373). Common activities include: industrial plant yards; material handling sites; refuse sites; sites used for application or disposal of process water; sites used for storage and maintenance of material handling equipment; sites used for residual treatment, storage or disposal of liquid, solid and gaseous waste; manufacturing buildings; storage areas for raw material and intermediate and finished products; and areas where industrial activity has been in operation for a period of time and is not considered stormwater.

AC. Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods—facilities that manufacture: electronic and other electrical equipment and components; except computer equipment (SIC Major Group 38); measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks (SIC Major group 38) and computer and office equipment (SIC code 357).

AD. Non-Classified Facilities—facilities that meet the definition of stormwater associated with industrial activity (UAC R317-3.8/3.9/4(d) & (d)), except for construction activities as defined under UAC R317-3.8/3.9/4(d) & (d)), but, can not be classified in another industrial sector (i.e., sectors A to AC), and are not excluded from permit coverage elsewhere in this permit, or, the Executive Secretary has designated as needing a storm water permit under UAC R317-3.8/3.9/4(d) & (d)). Should conditions at a facility covered by this section change and industrial activities in another section(s) contained in sectors A to AC apply, the facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to those contained in this section. The monitoring and pollution prevention plan terms and conditions of this permit are only applicable to the facility of the operator of the facility shall determine which monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

V. CERTIFICATION: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: KEITH THOMPSON
Date:  

Signature:  
Amount of Permit Fee Enclosed: $200.00

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
APPENDIX D

GUIDELINES ASSOCIATED WITH STORM WATER DISCHARGES
Guidelines Associated with Storm Water Discharge from Construction Activities

Prevent a mixture of non storm water discharge with construction storm water discharge.

All discharges under this permit must be made up entirely of storm water, unless the mixed discharge meets UPDES standards which include TDS, TSS, pH, Total Iron. Water discharges may not contain detergents, oils, greases, toxic or hazardous materials, or solvents.

If storm water containing any of the following components is released from the site, the plant manager or foreman must be notified immediately.

- Detergents
- Oils
- Greases
- Toxic or hazardous materials, or
- Solvents
- Concrete
- Asphalt

The plant manager must immediately notify the Division of Water Quality of the release, if the release is in excess of established reportable quantities. (801) 538-6146 OR (801) 536-4123 (24 Hour Number)

Erosion and Sediment Controls

Erosion and Sediment Controls must be constructed and maintained during construction activities.
Sediment will be removed at a sufficient frequency to minimize offsite impacts.
Sediment will be removed from berms and ponds when the designed capacity has been reduced by 50%.

Stabilization Practices

Preserve existing vegetation.
Incorporate seeding, mulching, geotextiles, and other appropriate measures to stabilize disturbed soils.
Divert flows from exposed soils with silt fences, earth dikes, swales, sediment traps or basins.
Inspections

Qualified personnel will inspect disturbed areas of the construction site at least once every fourteen days (14), before anticipated storm events and within 24 hours of a storm event that is 0.5 inches or greater. Unless site is in an arid period, then inspections shall be conducted at least once every month.

Inspections shall include:
- Drainage Systems
- Sediment Control Measures
- Erosion
- Offsite Sediment Tracking by Vehicles

Inspection Reports will include:
- Inspectors Name
- Date of Inspection
- Major Observations
- Actions Taken to Repair Sediment Structures
- Incidents of Non Compliance

Reports will be retained for three years (3) after the completion of the construction project.
APPENDIX E

NOTICE OF TERMINATION FOR STORM WATER DISCHARGES
ASSOCIATED WITH CONSTRUCTION ACTIVITY
STATE OF UTAH, DEPARTMENT OF ENVIRONMENTAL QUALITY, DIVISION OF WATER QUALITY
288 North 1400 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870

NOTICE OF TERMINATION (NOT) FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY
UNDER THE UPDES GENERAL PERMIT NO. UTR100000.

INSTRUCTIONS

Submission of this Notice of Termination constitutes notice that the operator identified in Section II of this form is no longer authorized to discharge storm water associated with industrial activity under the UPDES program. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Information

UPDES Storm Water General Permit Number: UTR101090

Check Here if You are No Longer the Operator of the Facility: X

Check Here if the Storm Water Discharge is Being Terminated:

II. Facility Operator Information

Name: TERRA SYSTEMS INC  Phone: 435-637-2470

Address: P.O. BOX 1673

City: PRICE  State: UT  Zip: 84501

III. Facility Site/Location Information

Name: TERRA SYSTEMS INC

Address: 1865 WEST RIDGE ROAD  County: CARBON

City: WELLINGTON  State: UT  Zip: 84542

Latitude: 39 31 27  Longitude: 110 45 58

IV. Certification: I certify under penalty of law that either (a) all storm water discharges associated with construction activity from the portion of the identified facility where I was an operator, have ceased or have been eliminated or (b) I am no longer an operator at the construction site and a new operator has assumed operational control for those portions of the construction site where I previously had operational control. I understand that by submitting this notice of termination, I am no longer authorized to discharge storm water associated with construction activity under this general permit, and that discharging pollutants in storm water associated with construction activity to waters of the State is unlawful under the State of Utah Water Quality Act where the discharge is not authorized by a UPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Water Quality Act.

Print Name: CLAYTON TIMOTHY

Signature: [Signature]

Date: 12/30/04

INCORPORATED

August 31, 2009

Div. of Oil, Gas & Mining
January 16, 2006

Utah Department of Environmental Quality
Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870

RE: Storm Water Discharge Monitoring Reports for Covol Engineered Fuels, LC
UPDES MSGP Permit No. UTR000685

To Whom It May Concern:

The above referenced permit for the Covol Engineered Fuels, LC facility in Wellington, Utah requires the following:

- Submittal of a Storm water Discharge Monitoring Report (SWDMR) for coal pile runoff by January 28, 2006
- Submittal of a SWDMR for quarterly discharge monitoring during the second and fourth year of the permit by March 31.

During calendar year 2005, the CEF facility was under construction and construction is presently continuing, with completion scheduled in the first or second quarter of this year. As such, this facility is still covered by the UPDES General Construction Storm Water Permit and no SWDMR is required.

Since the CEF facility is still covered by UPDES Construction General Permit No. UTR101180, no industrial storm water discharge samples were taken during the fourth year of the MSGP (2005). There is a coal pile onsite, but because the facility is still under construction, the coal pile runoff sampling requirements from the MSGP do not yet apply. Further, there was no storm water runoff from this pile during 2005. Therefore, the SWDMR for coal pile runoff is not required and is not being submitted (it would be void of substantive information).

In 2006, once construction has been completed and industrial activity commenced at the facility, the requisite coal pile runoff monitoring requirements will be fulfilled if there is any discharge. The corresponding SWDMR will be submitted by January 28, 2007. If there are any questions or concerns, please call Steve Van Ootegham, Regional Environmental Manager, at (801) 984-3777.

Sincerely,

Keith Thompson
Vice President, Covol Engineered Fuels, LC

cc: Mike Gipson/CEF
    Steve Van Ootegham/Headwaters Incorporated

---

1 Permit No. UTR101180 is valid through March 3, 2006.
SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN

COVOL ENGINEERED FUELS, LC
1865 WEST RIDGE ROAD
WELLINGTON, UT 84542

ORIGINAL DATE OF PLAN/P.E. CERTIFICATION: December 2005
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1. FACILITY OWNER AND OPERATOR

A. Corporate Headquarters, Address, and Telephone:

Headwaters Incorporated
10653 So. River Front Parkway, Suite 300
Salt Lake City, Utah 84095
(801) 984-9400

B. Facility Operator, Address, and Telephone:

Covol Engineered Fuels, LC
1885 West Ridge Road
Wellington, UT 84542
Telephone: (435) 613-1631

2. FACILITY CONTACT(S):

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mike Gipson</td>
<td>Plant Manager</td>
<td>(435) 613-1631</td>
</tr>
</tbody>
</table>

3. FACILITY CONFORMANCE [112.7(a)]:

A. Conformance [112.7 (a)(1)]

The facility intends to comply with the requirements of this Section. Details regarding the compliance with the requirements of Section 112.7 (a) are contained in this SPCC Plan.

The facility is new as of November 2005 and has not experienced any leaks or spill events. Should the facility experience spills they will be documented, reported according to applicable regulations and discussed in future updates of this plan.

B. Deviation from Requirements [112.7 (a)(2)]

The Facility does not plan to deviate from the requirements of Section 112.7 (a); therefore no variance is being requested.

C. Facility Description [112.7 (a)(3)]

Covol Engineered Fuels, LC operates a coal cleaning facility at 1865 West Ridge Road, Wellington, Utah. The facility produces coal-related products for commercial sale.

The facility has an area for feedstock handling and storage, an area containing coal cleaning equipment and an area for finished product storage. The facility is fenced with locked gate access.

In order to facilitate processing operations an aboveground storage tank within a secondary containment structure has been installed at a centralized location. Equipment maintenance needs will be taken care of offsite. Used oil will not be accumulated on site. There are no
underground oil storage tanks (UST) at this facility. The overall facility layout is shown in Figure 3-1, Facility Site Map, including the petroleum product storage area.

**Facility Product Storage Inventory (Typical Volumes) [112.7(a)(3)(i)]:**

<table>
<thead>
<tr>
<th>Tank ID No.</th>
<th>Contents</th>
<th>Volume (gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tank No. 1</td>
<td>Diesel Fuel</td>
<td>8,500</td>
</tr>
<tr>
<td>Drums/Containers (number varies)</td>
<td>Oil and Grease</td>
<td>5 to 55 per drum/container</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total Fixed Storage Volume: 8,500 gallons</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Variable Storage Volume: Up to 500 gallons</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total Storage Volume: 9,000 gallons</td>
</tr>
</tbody>
</table>

**Discharge Prevention Measures [112.7(a)(3)(ii)]**

A secondary containment has been constructed for the single diesel storage tank and another for the storage of various sized drums and containers, to prevent any spilled petroleum products in storage from reaching water of the United States. In addition, berms, culverts, ditches and detention ponds constructed to control stormwater runoff would also prevent oil from leaving the site. See Section 13 for loading and unloading procedures.

**Discharge and Drainage Controls [112.7(a)(3)(iii)]**

The nearest water body is the Price River, approximately two miles east of the Facility.

Berms, drainage ditches, and culverts direct operational area drainage into detention ponds. These detention ponds have the potential to receive and hold operational drainage and an unexpected release of oil from equipment or the oil storage areas. Figure 3-1 shows the facility layout and surface drainage direction of flow.

The Facility has been designed whereby drainage from undisturbed watershed areas is diverted away from the operational area with the use of berms, culverts, and diversion ditches.

**Countermeasures [112.7(a)(3)(iv)]**

Ideally, spill prevention measures would prevent a spill from occurring at the facility. However, a spill may still occur. Using the procedures listed below minor spills that are confined to small areas will be cleaned up as part of the ordinary operating procedure.

Procedures to follow in the event of a spill:

- Terminate source of flow - plugging and/or closing valve(s).
- Confine spill - berming, and trenching.
- Prevent from entering waterway.
- Notify Plant Manager or Plant Supervisor.
- Clean up - Absorb liquid with absorptive material before removing contaminated soil and other media.

**INCORPORATED**

**August 31, 2009**

**Div. of Oil, Gas & Mining**
• Disposal - Dispose of absorbent material and contaminated media only after conferring with the Plant Manager.
• Report – Complete the facility Spill Reporting Form (Appendix E), report clean-up activities identify cause and determine remedial action. Evaluate whether or not the spill must be reported to EPA Region 8 (for two or more spills in excess of 42 gallons each within a 12 month period or a single spill in excess of 1,000 gallons).

Direct Countermeasures

Direct countermeasures outlined below have been designed to mitigate the possibility of oil reaching a waterway. Employees will undertake these countermeasures immediately and especially when there is danger of oil entering a waterway or in case of a spill of significant size. Countermeasures include the necessary action to terminate the source of the flow of oil.

Dig a trench or dike, build a berm, use appropriate oil-absorbent materials or do whatever else is necessary to confine the area or to stop oil from entering a waterway. After this is accomplished, immediately initiate the reporting procedure. After the countermeasures and reporting functions have been accomplished, cleanup will begin as detailed below:

Who to Contact for Cleanup

In the case of small spill less than 10 gallons and confined to the facility area, the cleanup operation will be conducted by Plant employees under the direction of the Plant Manager.

In the case of a spill over 10 gallons, the Plant Manager and the Regional Environmental Manager must be notified. If the Plant Manager decides outside help is required the Plant Manager can contact one of the following contactors.

Nielsen Construction
750 East Ridge Road
Price, Utah 84501
(435) 636-8514

Rocky Mountain Excavation
6065 East North Coal Creek Road
Wellington, Utah 84542
(435) 637-9322

Cleanup Materials and Equipment

Spill control equipment at the facility includes absorbent pads and booms, granular absorbent material, shovels, and various earth moving equipment. A spill kit containing absorbent materials will be placed adjacent to the containment area.

Clean-up Procedures

For a spill on gravel or soil, it may be possible to absorb some of the liquid with absorptive material before removing the gravel or soil. All contaminated gravel or soil must be removed and discarded properly.
A spill on solid surfaces may be collected with absorptive materials and then cleaned thoroughly with rags. Sufficient quantities of absorbent material will be maintained adjacent to the containment area and other cleanup equipment will be available at the facility to accomplish cleanup.

Disposal of Contaminated Materials [112.7(a)(3)(v)]

When cleaning up diesel or oil, all spent cleanup material such as rags, absorbents, blankets, booms, and etc., must be disposed of in accordance with company’s approved procedures.

Contact List and Phone Numbers [112.7(a)(3)(vi)]

When a petroleum spill in excess of 10 gallons is detected the following company personnel will be notified:

- Plant Manager, (435) 613-1631
- Plant Supervisor, (435) 613-1631
- Steven Van Ootegham, Regional Environmental Manager, (801) 984-3777

Reportable Spill Under 110 or 112

According to SPCC rule Section 112.4 (a) facilities that store, transfer, use or consume oil and oil productions (112.1(b) are accountable to report spills or releases of oil that enters into or upon the navigable water of the United States or adjoining shorelines in harmful quantities.

A spill becomes reportable to the appropriate regulatory agency whenever a SPCC regulated facility has a:

1. discharge of more than 1,000 U.S. gallons of oil in a single discharge as described in 112.1(b)
2. discharge of more than 42 gallons of oil as described in 112.1(b) in each of 2 discharges within any 12-month period.

The following agencies will be verbally notified in the event of a spill of oil that may be harmful as defined in 40 CFR 110 and 112. Verbal notification to the agencies must be made within 24 hours of a legally reportable spill. In Utah, legally reportable spills are reported to:

U.S. Environmental Protection Agency
Denver Place, Suite 1300
999 18th Street
Denver, CO 80202-2413
Permits and Technical Support Branch
(800) 227-8917

- 4 -
Utah Division of Environmental Quality
Division of Environmental Response and Remediation
168 North 1950 West
P.O. Box 144840
Salt Lake City, UT 84114-4840
(801) 536-4123

These agencies may require follow-up written reports depending on the magnitude and quantity of the spill. The Regional Environmental Manager will be responsible for coordinating agency(s) notification and correspondence with regulatory agency(s) following an incident.

The National Response Center requires notification if a discharge of oil causes a discoloration or “sheen” on the surface of water, violates water quality standards or causes a sludge or emulsion to be deposited beneath the surface or on the adjoining shorelines.

National Response Center (800) 424-8802 or (202)267-2675

A spill is defined as a discharge of oil in harmful quantities into navigable water of the United States or adjoining shorelines. (40CFR 112.2) Harmful Quantity means any discharge of oil into or upon waters of the United States that may be harmful to the public health or welfare of the United State, including discharges of oil that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water or adjoining shoreline or cause sludges or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. (40 CFR 110.3).

**Not Reportable Under 110 or 112**

Small spills not reportable under 40 CFR 110 and 112 will be cleaned up as noted above.

**D. Reporting Procedure [112.7 (a)(4)]**

A spill becomes reportable to the appropriate regulatory agency whenever a SPCC regulated facility has a:

(1) discharge of more than 1,000 U.S. gallons of oil in a single discharge as described in 112.1(b)

or

(2) discharge of more than 42 gallons of oil as described in 112.1(b) in each of 2 discharges within any 12-month period.

When reporting discharges, the following information should be provided to the agencies:

The Company name, address and phone number.
Responsible company/person, including their address and telephone number.
Date, time, and type of incident (e.g., discharge or fire).
Quantity and type of material discharged.
Address of facility.
Waterways affected, if any, including amount of hazardous substance reaching water.
Description of circumstances causing discharge.
Description of methods used to stop and contain spill.
Describe actions used to remove and mitigate the effects of the discharge.
Description and estimate of any third party damages.
If applicable, any injuries associated with spill.
Procedures, methods, and precautions instituted to prevent a recurrence.
And the estimated quantity and disposition of recovered materials, if any.
Other pertinent information specific to the discharge.

A copy of the reporting form is provided in Appendix E.

E. Response Plan [112.7 (a)(5)]

The procedures to be used when responding to a spill are contained in Section 3 and Appendix E.

4. POTENTIAL SPILL PREDICTIONS, VOLUMES, RATES, AND CONTROL [112.7 (b)]

The potential for a spill or releases to leave the property is slight due to the redundant controls and the size of the facility relative to the volumes stored on site and the porous nature of the soils at the site. The initial control for Tank #1 is the tank’s secondary containment. The initial control for the various oil containers stored at the facility is the secondary containment. Backup containment exists in the berms, diversion/drainage ditches, and detention ponds at the facility. The location and layout of facility’s prevention measures are shown on Figure 3-1.

POTENTIAL SPILL PREDICTIONS, VOLUMES, RATES AND CONTROL [112.7(b)]

<table>
<thead>
<tr>
<th>Source</th>
<th>#1 Diesel Tank</th>
<th>#2 Various Containers (5 to 55 gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Failure</td>
<td>Rupture, Hose, Valve</td>
<td>Rupture/puncture</td>
</tr>
<tr>
<td></td>
<td>Failure</td>
<td></td>
</tr>
<tr>
<td>Volume (Gallons)</td>
<td>8,500</td>
<td>55</td>
</tr>
<tr>
<td>Rate (Gallons/hour)</td>
<td>Variable – event</td>
<td>Variable – event</td>
</tr>
<tr>
<td></td>
<td>dependent</td>
<td>dependent</td>
</tr>
<tr>
<td>Direction of Flow</td>
<td>Containment or Southwest</td>
<td>Containment or Southwest</td>
</tr>
<tr>
<td>Net Secondary</td>
<td>9,084</td>
<td>67.3</td>
</tr>
<tr>
<td>Containment (Gallons)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. DRAINAGE CONTROL DIVERSION STRUCTURES AND CONTAINMENT [112.7 (c)]

The diesel storage tank and other oil containers are enclosed within a steel secondary containment structure. The containment structures are capable of holding the volume of the largest oil container within each structure, plus the 25-year, 24-hour storm precipitation event for uncovered containment areas (approximately 2.2 inches of precipitation). The containment structures will have drains with locking valves.
6. DRAINAGE CONTROL [112.8(b)]

A. Facility Drainage Systems and Equipment

The initial control for the diesel tank is its secondary containment. Backup containment exists in the berms, diversion/drainage ditches, and detention ponds for the facilities. The tank containment has no connections to a sewer system.

To maintain containment capacity, when no oil sheen is present, the operator will manually drain or pump water from the secondary containment to one of the detention ponds. The required information associated with each drainage event will be recorded. When oil sheen is present the content of the containment structure will be collected by a licensed recycling or disposal company.

Surface water drainage reports to one of the two detention ponds, which provides control and treatment prior to release from the site. When oil is present, it will be collected with absorbent materials (pads, booms, etc.) or skimmed off for disposal or recycling at a licensed facility.

B. Final Discharge of Drainage

Prior to discharge, runoff from the facility reports to one of the detention ponds. The ponds are equipped with a spillway, which acts as an outlet control structure to provide detention time prior to final discharge. Drainage features are shown on Figure 3-1.

The detention ponds are checked periodically during normal operations and during storm events. If present, oil is removed with absorbent booms or pads or skimmed off for disposal or recycling at a licensed facility.

7. BULK STORAGE TANKS AND SECONDARY CONTAINMENT [112.8(c)]

A. Tank Compatibility

The storage tank is constructed of carbon steel with painted exterior and is compatible with the material stored inside. The tank conforms to all applicable building and fire codes.

B. Containment Volume for Storage Tanks

The containment structure is capable of containing the volume in the largest tank/container within the containment area plus the 25-year, 24-hour storm precipitation event. The net volume for secondary containment structures is shown in Table 4-1. Calculation sheets for the net volume of the secondary containment are contained in Appendix A.

Secondary containment protection for service trucks, equipment, fueling facilities, loading/unloading areas are provided by berms, drainage/diversion ditches, and detention ponds.
C. Containment Area Inspection and Drainage of Stormwater

When required prior to manually draining or pumping accumulated water from the secondary containment, the operator will perform a careful visual examination of accumulated water for oil or oil sheen. Further requirements for draining of secondary containment areas by the operators are contained on the Drainage Discharge Report Form in Appendix B. Record keeping requirements for these forms are discussed in Section 6, Part E.

The ponds are all constructed and operated as described above. The ponds are inspected periodically and during storm events. If oil is present, it is removed with the use of absorbent materials (pads, booms, etc.) or skimmed off for off-site disposal.

D. Corrosion Protection of Buried Metallic Storage Tanks

Not applicable - No underground storage tanks or buried oil conveyance piping.

E. Corrosion Protection of Partially Buried Metallic Storage Tanks

Not applicable - No partially buried storage tanks.

F. Aboveground Tank Periodic Inspection

Users/operators visually observe tanks, supports, and foundations for signs of deterioration and/or leaks which might cause a release or accumulation of hydrocarbons within the tank’s secondary containment. Concerns are reported to the Plant Manager or Plant Supervisor. Visible leaks from tank seams, rivets, or bolts that may lead to accumulation of oil within the secondary containment are repaired.

Fifty-five gallon drums and five-gallon cans on-site are observed for excessive external corrosion on a regular basis. Formal inspection of drums includes moving the drum so that all exterior surfaces can be observed. Any drum with rust blisters or flakes of rust is replaced.

Fixed storage tanks and secondary containment structures are inspected annually following the Facility Inspection Checklist contained in Appendix C. Record keeping requirements for these forms are discussed in Section 10.

G. Control of Leakage Through Internal Heating Coils

Not applicable.

H. Good Engineering Practices

Each container to be filled is inspected manually to ensure sufficient volume prior to the start of the filling process. The supplier and/or facility personnel will monitor the tank and gauges during the entire filling process of bulk storage containers to ensure it is not over filled (40CFR112.8(c)(8)(iv).
I. Observation of Disposal Facilities for Effluent Discharge

Secondary containment structures are routinely observed during operation and are inspected annually. Any oil present is removed prior to manual draining or pumping by using absorbent materials (pads, booms, etc.) or skimmed for off-site disposal.

System failure will require shut down by supplier or facility operator until the problem can be corrected. A release during loading/unloading or from a service truck will drains to the detention ponds where it will be collected and removed as discussed in Section 6, Part A.

J. Visible Oil Leak Corrections from Tank Seams and Gaskets

Visible oil leaks from tank seams, rivets, or bolts that may lead to accumulation of oil within the secondary containment is reported to the Plant Manager of Plant Supervisor and repaired by plant personnel. If repairs cannot be made immediately, temporary repairs are performed until permanent repairs are made. Plant personnel will clean up oil released following completion of the repairs.

K. Appropriate Positions of Mobile Oil Storage Tanks

Not Applicable.

8. FACILITY TRANSFER OPERATIONS [112.8(d)]

Not Applicable. No buried or aboveground pipeline.

A. Buried Piping Installation Protection and Examination

Not Applicable.

B. Not-In-Service and Standby Service Terminal Connections

Loading and unloading terminal connections to storage tanks are capped when not in use. There are no out of service lines at this facility.

C. Pipe Supports Design

Steel pipe supports, where required, are anchored to the localized secondary containment floors and walls. Pipelines are short and contained within the containment structure. This eliminates the need for expansion loops.

D. Aboveground Valve and Pipeline Examination

Users/operators visually observe piping and valves for signs of deterioration and/or leaks when in use. Any sign of deterioration or leakage that might cause a release or accumulation of oil inside a containment area is reported to the Plant Manager or Plant Supervisor. Visible leaks at flanges, valves, or fittings, which may lead to accumulation of oil in the secondary containment, are promptly repaired.
Valves are inspected annually by following the Facility Inspection Checklist contained in Appendix C. Record keeping requirements for these forms are discussed in Section 10.

E. Vehicle Traffic

The tank is aboveground, anchored, and contained within a secondary containment structure. The tank location and containment assist in protecting the tank from vehicular traffic.

9. PRACTICALITY OF INSTALLATION OF REQUIRED STRUCTURES [112.7(d)]

Secondary containment is practical and currently in use for all storage tanks and oil containers at this facility.

10. INSPECTIONS, TESTS AND RECORDS [112.7(e)]

In addition to annual inspections, the storage tanks and corresponding secondary containment systems containing petroleum product are inspected by an engineer every five years in conjunction with the review and re-certification of this SPCC plan. Inspection of the loading/unloading facilities and security features are also included. These inspections are documented and signed by the inspector on the Facility Inspection Checklist. Blank checklists are contained in Appendix C and completed checklists are maintained for three years in Appendix F.

11. PERSONNEL TRAINING AND SPILL PREVENTION PROCEDURES [112.7(f)]

A. Personnel instructions [112.7(f)(1)]

All new employees are trained in spill prevention and are made familiar with the SPCC Plan as part of their initial training. Regular refresher safety training also addresses spill prevention and response. Training records for personnel are maintained at the facility.

B. Designated Person Accountable for Spill Prevention [112.7(f)(2)]

The Plant Manager is the designated responsible person accountable for spill prevention.

C. Spill Prevention Briefings [112.7(f)(3)]

Spill prevention issues are regular topics at safety meetings, thus fulfilling the requirement of annual spill prevention briefings. In the event of a spill, spill prevention policies would be reviewed following the spill response. The spill response process will be reviewed and suggestions for improvement discussed.

12. SITE SECURITY [112.7(g)]

A. Fencing [112.7(g)(1)]

The Facility is fenced and gated. The gate to the facility remains open during operating hours and shut and locked when the facility is not in operation.
B. Flow Valves Locked [112.7(g)(2)]

All drain valves permitting an outward flow of fuel from storage tanks and local secondary containment drains have on-off type valves that remain securely locked in the closed position when not in use.

C. Starter Controls Locked [112.7(g)(3)]

The facility has a fixed tank storage area with a fueling station for equipment. The fueling station has manual locks to control fueling.

D. Pipeline Loading/Unloading Connections Securely Capped [112.7(g)(4)]

All loading and unloading connections on storage tanks are capped with threaded or cam type caps. These caps are removed only during filling or draining operations and are replaced at the end of the operation.

E. Lighting Adequate to Detect Spills [112.7(g)(5)]

The facility has yard lights sufficient to illuminate storage, maintenance, and fueling areas. These yard lights are sufficient to observe any release, vandalism, or equipment problems during nighttime operations.

13. FACILITY LOADING/UNLOADING OPERATIONS [112.7(h)]

Loading/unloading procedures for supplier tank trucks meet or exceed the minimum requirements and regulations of the Department of Transportation as set forth in 40 CFR 112.7. No rail tank cars are used at this facility.

Though the loading/unloading area does not have localized secondary containment the area is provided secondary containment by the berms, drainage/diversion ditches, and detention ponds that protect the operational facility as previously discussed in Sections 3 and 6.

A. Secondary Containment for Vehicles Adequate [112.7(h)(1)]

The tank truck loading/unloading areas are unpaved. These areas do not have localized secondary containment features. However, all areas drain to a detention pond. This pond has sufficient volume to store the entire contents of the largest single compartment of a tanker truck servicing the facility (approximately 10,000 gallons) or piece of equipment being fueled (approximately 175 gallons) except in the event of a 25-year storm event. In the event of a 25-year 24-hour storm, absorbent booms will be deployed at the pond overflow spillway to provide capture and additional storage for oil products.

B. Warning System for Vehicles [112.7(h)(2)]

Warning and instructions for loading/unloading are posted on all tank truck, including instructions for disconnecting all flexible transfer lines. Supplier personnel are present during all loading/unloading of storage tanks. Operating personnel are present during all fueling...
operations for equipment. These personnel assure all lines are properly connected and
disconnected as necessary.

C. Vehicles Examined for Lowermost Drainage Outlets Before Leaving
[112.7(h)(3)]

Prior to the departure of any tank truck from the loading/unloading areas, the lower most drain
and all outlets of the tank truck will be checked for leakage. If necessary, valves and fittings will
be tightened, adjusted, or replaced to prevent leakage during transit. Supplier personnel
present during the loading/unloading operation will ensure these procedures are followed.

14. BRITTLE FRACTURE EVALUATION [112.7(i)]

If a tank at the facility is repaired, modified, experiences a change in service or fails, the tank will
be evaluated for the risk of brittle fracture or other means of failure. If a risk of failure exists
appropriate action will be taken.

15. ADDITIONAL REQUIREMENTS FROM STATE RULES AND REGULATIONS [112.7(j)]

The State of Utah does not have any additional regulations related to oil spill prevention beyond
that which are currently found in the Federal Regulations. This SPCC Plan has been prepared
based on the Federal Regulations and as such it addresses all pertinent Utah Regulations.
Professional Engineer Certification:

I hereby certify:

I am familiar with the requirements of 40 CFR Part 112:

- I have visited and examined the facility;
- The plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards, and with the requirements of part 40 CFR 112;
- Procedures for required inspections and testing have been established; and the plan is adequate for the facility.

Layne Jensen
Printed Name of Registered Professional Engineer

Layne Jensen
Signature of Registered Professional Engineer

12-16-05
Date

189797
Registration Number

(Seal)
SPILL PREVENTION CONTROL AND COUNTERMEASURE COMPLIANCE
PLAN REVIEW RECORD

In accordance with 40 CFR 112.5(b), a review and evaluation of this SPCC Plan is conducted at least once every five years. As a result of this review and evaluation, Covol Engineered Fuels, LC will amend the SPCC Plan within six months of the review if the plan is ineffective. Any amendment to the SPCC Plan shall be certified by a Professional Engineer within six months after a change in the facility design, construction, operation, or maintenance occurs which materially affects the facility’s potential for the discharge of oil into or upon the navigable water of the United States or adjoining shorelines.

Review Dates                      Signature

1. No later than:
   December 2010*

2. No later than:
   December 2015*

3. No later than:
   December 2020*

4. No later than:
   December 2025*

- SPCC Plan reviewed, amended and certified by a Registered Professional Engineer per 40 CFR112.3 (d).
CERTIFICATION

Facility: Covol Engineered Fuels, LC  
1865 West Ridge Road  
Wellington, UT  84542  
Telephone:  (435) 613-1631

Owner: Headwaters Incorporated  
10653 So. River Front Parkway  
South Jordan, UT  84095  
Telephone:  (801) 984-9400

Management Approval:

This Spill Prevention Control and Countermeasure Plan (SPCC) was prepared to satisfy the requirements of 40 CFR Part 112. I approve of this plan and have the authority to commit the necessary resources to fully implement this Plan, which will be put into practice as described. Covol Engineered Fuels, LC is committed to the prevention of discharges of oil to navigable waters and the environment, and maintains the highest standards for spill prevention control and countermeasures through regular review, updating, and implementation of this Spill Prevention Control and Countermeasure Plan.

R. Keith Thompson  
Printed Name

Vice President  
Title

[Signature]  
Signature

19 Dec 05  
Date

INCORPORATED

August 31, 2009  
Div. of Oil, Gas & Mining
APPENDIX A

SECONDARY CONTAINMENT VOLUME CALCULATIONS

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TANK #1
SECONDARY CONTAINMENT CALCULATIONS

The tank is mounted on skids and set inside the secondary containment.

Tank Dimensions:  
Length = 25 feet 8.5 inches  
Diameter = 7 feet 6 inches
Tank Volume:  
8,500 gallons = 1136.3 cubic feet

The secondary containment for this tank is a pre-fabricated rectangular steel tank. The top of the tank is open allowing storm water to accumulate. A 2” gate valve can be used to drain rain water from the secondary containment.

Interior Secondary Containment Dimensions:  
Length = 35'-0”  
Width = 10'-0”  
Height = 3’-8” feet

Total Secondary Containment Volume = 35’ x 10’ x 3.67’ = 1280.5 cubic feet

Items Reducing Secondary Containment Capacity

Tank Skid and Support Volume:

The tank is mounted on two 6” channels 31’ long with 4” channel laterally every 5’ with a length of 2.5’. A 2.5’ long section of 6” channel is also on both ends of the skids.

Area of 6” channel = 0.0266 square feet
Area of 4” channel = 0.0148 square feet
Length of 6” channel = (2)31’ + (2)2.5’ = 67’
Length of 4” channel = (5)2.5’ = 12.5’
Volume of skid = 67’*(0.0266 ft²) + 12.5’*0.0148 ft² = 1.97 cubic feet

Rainfall Volume:  
25-year 24-hour storm event = 2.2 inches

2.2”/(12 inches/ft) x 35’ x 10’ = 64.17 cubic feet

Net Secondary Containment

Net Secondary Containment = 1280.5 – 1.97 – 64.17 = 1214.36 cubic feet = 9084 gal.

9,084 gal. > 8,500 gal.

Excess Secondary Containment = 1214.36 ft³ - 1136.30 ft³ = 78.06 ft³ = 584 gal.

Therefore, the available secondary containment volume can contain the entire contents of the tank and the stormwater from a 25-year 24-hour storm event of 2.2 inches.
DRUM STORAGE AREA
SECONDARY CONTAINMENT CALCULATIONS

The Drum Storage Area may hold up to 500 gallons in a variety of 55-gallon drums or smaller containers. The minimum dimensions of the secondary containment will be calculated based on the assumption that up to (10) 55-gallon drums will be stored within the secondary containment.

Maximum Spill Volume = 55 gallons = 7.4 cubic feet

Assume 6.25 square feet of storage space needed for each 24-inch diameter drum.

Total area needed = 10 x 6.25 square feet = 62.5 square feet

Containment Dimensions: 7.5 feet x 8.5 feet x 7 inches

Containment volume = 7.5’ x 8.5’ x 0.583’ = 37.2 cubic feet

Rainfall volume = 2.2”/(12 inches/feet) x 7.5 x 8.5 = 11.7 cubic feet

Area of drum = $(3.14159)(1 \text{ ft})^2 = 3.14159 \text{ square feet}$

Drum volume below top of containment = (9 drums)$(3.14 \text{ ft}^2)(0.583’)= 16.5 \text{ cubic feet}$

Note: 9 drums are used in this calculation because it is assumed that one of the 10 drums has failed and is the source of the spilled oil.

Drum volume = 55 gallons = 7.4 cubic feet

Total containment required = $7.4 \text{ ft}^3 + 16.5 \text{ ft}^3 + 11.7 \text{ ft}^3 = 35.6 \text{ cubic feet}$

37.2 cubic feet > 35.6 cubic feet

Net Secondary Containment = $37.2 \text{ ft}^3 - 16.5 \text{ ft}^3 - 11.7 \text{ ft}^3 = 9.0 \text{ cubic feet}$

= 67.3 gallons

Therefore, adequate secondary containment capacity exists to hold the 25-year 24-hour storm event and the spill of a 55 gallon drums while the maximum number of barrels are being stored in the containment structure.

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CONTAINMENT CALCULATIONS FOR
POTENTIAL SPILL DURING LOADING/UNLOADING

The largest tanker truck to be used to deliver fuel to the site has a capacity of 10,000 gallons (1,337 cubic feet). As shown on figure 3-1 the site drains to one of two sediment ponds depending on location.

SW Pond Capacity = 31,000 cubic feet
SE Pond Capacity = 52,000 cubic feet

Either of the above ponds have the capacity to easily contain the maximum spill from loading/unloading operations.
APPENDIX B

DRAINAGE DISCHARGE REPORT FORM
### DRAINAGE DISCHARGE REPORT FORM

<table>
<thead>
<tr>
<th>Operator Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area Designation:</td>
</tr>
<tr>
<td>Drained: Yes  No  Pumped: Yes  No</td>
</tr>
<tr>
<td>Date:         Time:</td>
</tr>
<tr>
<td>Quantity of Water Discharged (Gallons):</td>
</tr>
<tr>
<td>Appearance of Water at Time of Pumping or Discharge:</td>
</tr>
<tr>
<td>Signature of Operator:</td>
</tr>
</tbody>
</table>

---

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August 31, 2009

Div. of Oil, Gas & Mining
APPENDIX C

FACILITY INSPECTION CHECKLIST
FACILITY INSPECTION CHECKLIST

Date: __________________________ Time: __________________________

Inspector: __________________________

<table>
<thead>
<tr>
<th>Drainage – Ponds/Ditches</th>
<th>Storage Tank(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>____ Oil sheen on water surface or runoff</td>
<td>____ Tank checked for signs of leakage</td>
</tr>
<tr>
<td>____ Erosion or leaking embankment/slopes</td>
<td>____ Tank condition good (no rusting, corrosion, pitting)</td>
</tr>
<tr>
<td>____ Visible oil sheen in containment area</td>
<td>____ Bolts, rivets, or seams damaged</td>
</tr>
<tr>
<td>____ Do containment areas require pumping</td>
<td>____ Tank foundation intact</td>
</tr>
<tr>
<td>or draining</td>
<td>____ Gauges working properly</td>
</tr>
<tr>
<td></td>
<td>____ Vents not obstructed</td>
</tr>
<tr>
<td></td>
<td>____ Containment walls are intact with no visible gaps</td>
</tr>
<tr>
<td></td>
<td>____ Valves, flanges &amp; gaskets leak-free</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Security</th>
<th>Loading/Unloading Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>____ Fence and gates intact</td>
<td>____ Standing water in area capped</td>
</tr>
<tr>
<td>____ Gate lock(s) in working order</td>
<td>____ Out-of-service pipes/hoses</td>
</tr>
<tr>
<td>____ Facility lighting working</td>
<td></td>
</tr>
<tr>
<td>____ Pump starter controls locked</td>
<td></td>
</tr>
<tr>
<td>when not in use</td>
<td></td>
</tr>
</tbody>
</table>

Remarks/Recommendations:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
R = Repair or Adjustment Required

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APPENDIX D

CERTIFICATION OF THE APPLICABILITY
OF THE SUBSTANTIAL HARM CRITERIA CHECKLIST

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Div. of Oil, Gas & Mining
CERTIFICATION OF THE APPLICABILITY
OF THE SUBSTANTIAL HARM CRITERIA CHECKLIST

FACILITY NAME & ADDRESS: Covol Engineered Fuels, LC – Ridge Road Facility
1865 West Ridge Road, Wellington, Utah 84542

1. Does the facility transfer oil over water to or from vessels and does the facility have a
total oil storage capacity greater than or equal to 42,000 gallons?
Yes ________ No X

2. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons
and does the facility lack secondary containment that is sufficiently large to contain the
capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for
precipitation within any aboveground oil storage tank area?
Yes ________ No X

3. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons
and is the facility located at a distance (as calculated using the formula in Attachment C-
III to this Appendix or a comparable formula
1) such that a discharge from the facility could
cause injury to fish and wildlife and sensitive environments? For further description of
fish and wildlife and sensitive environments, see Appendices I, II, and III to DOC/NOAA's
“Guidance for Facility and Vessel Response Environments” (see Appendix E to this part,
Section 13, for availability) and the applicable Area Contingency Plan.
Yes ________ No X

4. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons
and is the facility located at a distance (as calculated using the appropriate formula in
Attachment C-III to this Appendix or a comparable formula
2) such that a discharge from
the facility would shut down a public drinking water intake?
Yes ________ No X

5. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons
and has the facility experienced a reportable oil discharge in an amount greater than or
equal to 10,000 gallons within the last 5 years?
Yes ________ No X

---

1 If a comparable formula is used, documentation of the reliability and analytical
soundness of the comparable formula must be attached to this form.

2 For the purposes of 40 CFR part 112, public drinking water intakes are analogous to
public water systems as described at 40 CFR 143.2(c).

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CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

Name (please type or print) ________________________________ Signature ________________________________

Title ________________________________ Date ________________________________

from 40 CFR 112 Appendix C, Attachment C-11
APPENDIX E

SPILL COUNTERMEASURES PLAN, SPILL REPORTING PROCEDURES
AND SPILL REPORTING FORM
APPENDIX E

SPILL REPORTING PROCEDURES

For the purpose of Oil Spill Reporting, the word "spill" is used to reference a "spill event" (as defined in 40 CFR 112.2), as well as any discharge, release, or leak of "oil" (as defined in 40 CFR 112.2).

The Spill Prevention Control and Countermeasures (SPCC) Plan for the Plant will be filed in the Plant Office. This plan identifies responsible personnel (names and telephone numbers), and steps to be taken for response and clean up, (refer to Section (c) below).

The following procedures should be followed in the event of a reportable spill of oil:

Proper reporting of a spill is very critical and must be performed carefully, accurately, and in a timely manner. Spills of 10 gallons or more are to be reported to the Plant Manager.

(i) When to Report

According to SPCC rule Section 112.4 (a) facilities that store, transfer, use or consume oil and oil productions (112.1(b) are accountable to report spills or releases of oil that enters into or upon the navigable water of the United States or adjoining shorelines in harmful quantities.

A spill becomes reportable to the appropriate regulatory agency whenever a SPCC regulated facility has a:

(1) discharge of more than 1,000 U.S. gallons of oil in a single discharge as described in 112.1(b)

or

(2) discharge of more than 42 gallons of oil as described in 112.1(b) in each of two discharges within any 12-month period.

At any operation, any leakage or spill of oil that is in danger of leaving or has left company property must be reported immediately as described below.

(ii) How to Report and To Whom

(a) In-House Verbal Reporting

In the case of a small spill less than 10 gallons and confined to the facility area, the cleanup operation will be conducted by Plant employees under the direction of the Plant Manager.

In the case of a spill over 10 gallons, the Plant Manager and the Regional Environmental Manager must be notified.

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After taking immediate action, the person discovering the spill must notify his/her supervisor, giving the information listed below.

1. The location of the spill, including type of terrain and nearest waters and anticipated movement of spilled material;
2. Into what medium(s) was the oil spilled (land, water, and/or air);
3. The time and date the spill was first observed;
4. Existing weather conditions;
5. The device or activity involved when the spill occurred;
6. The cause of the spill;
7. The material spilled;
8. The estimated quantity of the spill;
9. What actions have been taken to stop, contain and cleanup the spill;
10. The effectiveness of cleanup operations;
11. Report any health hazards and characteristics;
12. Any injuries or problems as a result of the spill;
13. Who responded to spill;
14. Is help needed?

The Plant Manager or Regional Environmental Manager will determine if the spill is reportable. The Regional Environmental Manager will notify the regulatory agencies concerning the spill as required.

(b) **In-House Written Reporting**

For a reportable spill outside of a containment area, a complete written report must be submitted to the Plant Manager as soon as possible (usually within 24 hours of the spill discovery). This written report must address the same components listed above, and any additional issues deemed important by operating personnel. The attached spill reporting form has been designed to facilitate such written reporting.

(c) **Reporting to State and Federal Agencies**

The Plant Manager, Regional Environmental Manager or designated representative will execute all reporting to the agencies.

1. Report immediately any "reportable" spill, as well as any spill that enters or threatens to enter any river, stream, canal, sewer, drain, lake or pond to the EPA, and to the State as detailed in the SPCC Plan.

2. Make necessary written reports to the State, EPA and other agencies as required. The U.S. Coast Guard National Response Center typically does not require a written report of the spill, although one may be requested in certain situations. Verbal notification to the agencies must be made as soon as possible, but not later than the first working day after the spill. In case the
Regional Environmental Manager cannot be contacted by the end of the first working day after the spill, the verbal report must be made by the Plant Manager or designated representative. Oil entering water or having the potential to do so requires immediate verbal notification. Immediate has been defined for this situation as “as soon as possible” after the spill. Telephone numbers of agencies requiring notification are listed below.

U.S. Environmental Protection Agency, Permits and Technical Support Branch (800) 227-8917

Utah Division of Environmental Quality, Division of Environmental Response and Remediation (801) 536-4123

The National Response Center requires notification if a discharge of oil causes a discoloration or "sheen" on the surface of water, violates water quality standards or causes a sludge or emulsion to be deposited beneath the surface or on the adjoining shorelines.

National Response Center (800) 424-8802 or (202)267-2675
SPILL REPORTING FORM

1. Date of spill
   ____________________________

2. Person(s) to discover spill
   ____________________________

3. Location of spill, including type of terrain and nearest waters or drains
   ____________________________
   ____________________________
   ____________________________

4. Time spill was first observed
   ____________________________

5. Existing weather conditions
   ____________________________

6. Device or activity involved when spill occurred
   ____________________________
   ____________________________
   ____________________________

7. Cause of spill
   ____________________________
   ____________________________
   ____________________________

8. Material spilled
   ____________________________

9. Estimated quantity of spill (gallons)
   ____________________________

10. Persons and/or agencies notified
    ____________________________
    ____________________________
    ____________________________

11. When and what action was taken for countermeasures, control and cleanup
    ____________________________
    ____________________________
    ____________________________
    ____________________________
    ____________________________
    ____________________________

12. Effectiveness of cleanup operations
    ____________________________
    ____________________________
    ____________________________

Date: _______. Person completing form: ________________________ Title: ________________________
APPENDIX F

COMPLETED FORMS AND CHECKLISTS
Exhibit 3
Photographs of COVOL Facility
Photo 1: COVOL Wellington Administrative Offices.

Photo 2: Processing facility entrance and security gate.

Photo 3: Raw material conveyor and radial stacker with telescoping chute to reduce emissions.

Photo 4: Feed hopper, conveyor, screen and hammermill – covered to reduce emissions.
Photo 5: Processing area from south showing low opacity and good air quality.

Photo 6: Coal separation and bag house dust control equipment.

Photo 7: Conveyors and stackers for final coal piles.

Photo 8: Internal roads consist of aggregate cover to minimize fugitive dust from mobile sources.
Photo 9: Water truck used daily for dust suppression on roads.

Photo 10: Water truck log showing water application records.

Photo 11: Storm Water managed on site using drainage channels and culvert pipes.

Photo 12: Silt fencing and straw bales used to complement drainage system and preclude sediment erosion off site.
Photo 13: Drainage pipe discharges water toward storm water detention basins on south side of facility.

Photo 14: Storm water detention basin at southeast area of facility.

Photo 15: Straw bales used per SWPP plan for erosion protection.

Photo 16: Drainage channel and additional straw bales (if needed) for erosion protection.

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Photo 17: Solid waste management provided by local disposal company.

Photo 18: Weekly environmental inspection records maintained at facility.

Photo 19: Diesel fuel tank with secondary containment per site SPCC Plan.

Photo 20: Non-hazardous drum storage area for petroleum products with secondary containment per SPCC Plan.
Exhibit 4
COVOL Environmental Policies and Procedures and EMS Program Documents

1. Headwaters Environmental Compliance Policies and Procedures (ECPP)
2. Operations Review Checklist
3. Wellington – Enverity EMIS Configuration Document
HEADWATERS INCORPORATED

Environmental Compliance Policies and Procedures

DRAFT

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HEADWATERS INCORPORATED

Environmental Compliance Policies and Procedures

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SECTION I
INTRODUCTION

VISION STATEMENT

Headwaters Incorporated creates value through environmentally responsible energy, chemical products and services, and developing innovative value-added opportunities for customers.

PURPOSE

The purpose of this document is to advance our Vision Statement through the adoption of a strong and thoughtful Environmental Compliance Policy statement for Headwaters Incorporated, and its subsidiaries and affiliates (the “company”). This document will also serve as a guide to the company’s environmental compliance group and facilities’ operations staffs by providing standard procedures and policies to help achieve company environmental standards and regulatory compliance.

SCOPE

This Policy expresses the commitment of, and provides a course of action for, the company to meet the environmental compliance standards applicable to all facets of its operations.
SECTION II
ENVIRONMENTAL COMPLIANCE POLICY

Headwaters Incorporated (“company”) is committed to providing environmental security and protection to our customers, to our employees, to the communities in which we operate, and to the environment. Each employee of the company will ensure that the appropriate standards of health, safety and environmental protection are observed and enforced.

The company will work closely with regulatory agencies and industry associations to develop and comply with sound environmental protection policies. When necessary, the company will act reasonably to implement new environmental protection initiatives. The company will utilize resources as an alternative to disposal wherever technically feasible and economically viable.

The company will periodically conduct environmental audits of its operations and will act promptly to provide corrective actions for any deficiencies that may be found. Our management will monitor each operating unit and will ensure that these principles are maintained.

The company’s Environmental Compliance Policy is demonstrated through:

- **Awareness**: Exercising sound environmental practices and stewardship at all company-owned facilities and for all resources under our management.

- **Planning**: Using environmental factors as a critical component in our planning and decision making processes and committing sufficient resources to implement effective environmental programs.

- **Education**: Providing employees with sufficient knowledge to perform their work in an environmentally compliant and personally accountable manner. Allowing all employees to seek environmentally responsible solutions to all aspects of the company’s operations.

- **Research and Development**: Engaging in research and development efforts to create technologies aimed at minimizing the environmental impacts of our customers and our own operations.

- **Communications**: Maintaining open channels of communication with our customers, employees, government agencies, public officials, the media and the public to meet their information needs in regard to environmental issues.

- **Improvement**: Evaluating our environmental performance through periodic reviews and audits to ensure that our conduct is consistent with these principles.

- **Participation**: Participating with government agencies, professional organizations, and others in developing responsible regulations and standards affecting our activities in and impact on the environment.

- **Reducing Impacts**: Optimizing operations in a manner that reduces any adverse environmental impacts caused by operations conducted at our facilities.
SECTION III
ORGANIZATION and RESPONSIBILITIES

The purpose of this section is to provide a description of the organization and responsibilities of the Headwaters Environmental Health and Safety (EH&S) Regulatory Compliance Section.

The company established its EH&S Regulatory Compliance Section to provide corporate support to ensure that facilities are operated in compliance with applicable laws, rules, regulations, policies, and procedures. The Regulatory Compliance Section and its Environmental Staff are within the Corporate Development and Administration Department. The Corporate Development and Administration Department in turn reports to the CEO of the Company. The Environmental Staff consists of a Corporate Environmental Manager that is supported by Regional Environmental Managers and an Administrative Assistant. As to environmental compliance matters, each Facility Manager has “dotted-line” reporting responsibility to the Corporate Environmental Manager.

Environmental Staff

The Corporate and Regional Environmental Managers’ primary responsibility is to facilitate implementation of corporate environmental policies and procedures, assist facility management in the identification and resolution of specific environmental compliance problems, and provide assurance to corporate management regarding the regulatory compliance status of its operating facilities. This responsibility is two-fold: one - to provide a compliance resource for Facility Managers; and, two - to provide corporate oversight for compliance issues. The duties of the Environmental Managers include: maintaining a working knowledge of applicable environmental regulations, and anticipating the effects of new and proposed regulations on facility operations; participating in facility management meetings where the impact of regulatory changes on facility operations is discussed and planned for; developing and implementing an environmental compliance and information management system for Headwaters’ facilities; assisting Facility Managers in resolving any regulatory compliance issues related to either governmental regulations or internal company policies and procedures; assuring that Headwaters’ facilities operating permits are maintained and current, including permit revisions and modifications; assisting in staff training on applicable regulations; and consulting with the Legal Department from time to time for assistance in completing the tasks listed above.

Individual business units within the company may employ local or sub-regional environmental support staff whose primary function is to coordinate the day-to-day environmental duties within one or more facilities. These coordinators serve as an extension of the Corporate Environmental Staff with respect to compliance management and are the liaisons between the Environmental Staff and the Facility Managers.

The Environmental Staff has administrative record keeping and documentation responsibilities that include maintenance of all facility permits, inspections, internal environmental monitoring records, and oversight of the Facility Managers efforts to maintain environmental operating records.
Facility Managers

Facility Managers are principally responsible for achieving and maintaining compliance with the applicable provisions of local (including tribal, where applicable), state and federal laws, rules and regulations, and company policies and procedures. Facility Managers are assisted by corporate staff and by various programs and policies developed and implemented by Headwaters’ Regulatory Compliance Section, Corporate Development and Administration, Legal, Public Relations, and Human Resources Departments. Facility Managers have direct line reporting responsibility to their respective regional operations vice president and “dotted-line” reporting responsibility to the Corporate Environmental Manager. Facility Managers are responsible for management of daily regulatory compliance related tasks and maintaining environmental records, while still retaining authority and responsibility for all onsite policy and operating decisions that affect environmental compliance. Facility Managers have final responsibility for assuring the facility’s conformance with federal, state and local environmental regulations as well as with the company’s internal environmental and quality assurance procedures if, and where, they differ. They are responsible, with the assistance of the company’s Environmental Staff and Legal Department, for securing and maintaining required environmental permits and licenses for the facility and for training facility personnel.

Laboratory Managers

Laboratory Managers that are primarily responsible for quality control/quality assurance matters, have “dotted-line” reporting responsibility to the Corporate Environmental Manager for applicable environmental programs that they are involved in. They are responsible for conformance with their facility’s environmental permit requirements and ensuring that their facility handles only materials that are properly documented. Documentation for on-site material includes, but is not limited to, maintaining Material Safety Data Sheets (“MSDS”) and making all required notifications under the Superfund Amendments and Reauthorization Act (“SARA”) program.

Laboratory Managers of facilities that are primarily involved in research and development will need to have a constant and flexible relationship with the Environmental Staff. These Laboratory Managers will deal directly with a representative of the Environmental Staff on an as needed basis to ensure environmental compliance.
SECTION IV
CORPORATE ENVIRONMENTAL AUDIT PROGRAM

The purpose of this section is to describe the company’s Corporate Environmental Audit Program.

Corporate Environmental Audit Program

An environmental compliance audit program has been established within the Environmental Services Compliance Group to monitor compliance efforts at the company’s facilities. At the direction of the Legal Department, the company conducts both announced and unannounced environmental compliance audits at all company operating facilities on a periodic basis. The audits focus on compliance with applicable local (and tribal, if applicable) state and federal environmental laws and regulations as well as corporate policies and procedures. Audits also provide an opportunity to develop practical compliance solutions.

Audits

The company operates at approximately 200 facilities in the United States and Canada. Inasmuch as the operations at these facilities vary greatly, the company has developed a multi-leveled priority list for audits. Factors considered in determining the frequency of environmental audits include: potential environmental impact; levels of capital investment; environmental permits; levels of environmental regulatory requirements; size of operation; compliance history; size of staff; and visibility to clients and the public. Consequently, facilities that rate higher among the above listed factors are audited more frequently than other facilities.

Facilities that have the highest potential impact based on the above criteria are audited every twelve to eighteen months. The next level of facilities is audited every twenty-four months. Other facilities are not audited on a regular schedule, but are subject to random unannounced audits, and are contacted on a minimum triennial basis to assure the environmental program is being observed. Any facility requesting an audit will be audited in a timely manner.

All audits are conducted at the direction of the Legal Department, and, thus, subject to the attorney-client privilege. The focus of each audit is compliance and improvement. That is, to maintain compliance and to improve operations from an environmental standpoint.
SECTION V
INFORMATION MANAGEMENT

The purpose of this section is to provide general guidance for managing regulatory compliance information at the company’s facilities.

The management of regulatory compliance information is a key element of the company’s goal of environmental compliance. Federal, state, and local (including tribal) regulations require that specific information on facility operations be available for inspection and review by regulatory personnel. In addition, this information can be used by facility personnel as a measure of operational efficiency and effectiveness.

The Facility Manager is responsible for maintaining environmental facility records including: permits, environmental plans and employee training, inspections, annual reports, emergency preparedness (SARA), MSDS, agency correspondence, monitoring/sampling and test data, spill reports, etc. It is the responsibility of the Facility Manager to set up an information management system to organize and document these critical environmental compliance records. This information management system must be compatible and consistent with any electronic environmental management system implemented by the company.

Any environmental documents required by permits or regulations are maintained for the minimum retention times required by those permits or regulations. If no retention time is specified, a minimum five-year retention period is observed. Duplicate files of permits and agency related materials are kept at corporate offices. If there is any question about requirements for records retention, contact the Corporate Environmental Manager.

Periodic inspection information, as well as operating records must be maintained either manually or electronically. In addition, permits, environmental compliance-related reports, training requirements and other environmental records must be an integral part of a facility’s operation. The information management system used must be capable of calling to attention all routine environmental activities, scheduled maintenance for pollution abatement systems, and corrective actions or repairs that are required to maintain the facility’s desired operational status and environmentally compliant condition.
SECTION VI
PLANNING and PERMITTING

The purpose of this section is to provide guidance for obtaining and maintaining required environmental permits.

The Regional or Corporate Environmental Manager must be contacted as soon as possible when planning any new construction project, physical change, or operational changes to or at existing facilities. Environmental permit preparation time and agency review time together are usually measured on the order of months. Environmental permits are usually required prior to breaking ground. **Headwaters will not begin construction of a project unless all required environmental permits are in place.**

Many facilities where the company operates on the client’s property may require less environmental program involvement by the company due to client ownership and/or contract conditions that assign environmental program implementation to the client (e.g., facilities that primarily market ash from a utility-owned silo may have less environmental program obligation than one owned by the company). Other facilities that are owned by the company, operated with the company’s equipment, and heavily staffed with company personnel may be involved in several programs requiring environmental permits, record keeping and notification responsibilities. The following is a list of potential environmental programs that a facility could be involved in. The list is considered comprehensive for major federal and/or state programs:

- **Air Programs and Permits**
- **Water Program - National Pollutant Discharge Elimination System (NPDES) and Publicly Owned Treatment Works (POTW)**
- **Solid Waste Management and Disposal Programs and Permits**
- **SARA TITLE III – Community Right-To-Know (RTK; Tier II and Toxic Release Inventory (TRI) Reporting)**
- **Hazardous Wastes Programs and Permits**
- **Spill Prevention Control and Countermeasure (SPCC – oil spill plan)**
- **Universal Waste**
- **Used Oil**
- **Toxic Substances Control Act (TSCA) – for chemical manufacturing**

There are always unusual situations in which local or obscure permits or programs may be required, but this list is complete for practical purposes. Each of these programs is described below.

**Air Programs and Permits**

Any facility where there are company owned silo(s), stockpile(s), baghouse(s), research equipment, or other equipment that vents directly to the atmosphere and contains potential pollutants will likely require an air permit or documentation of an air permit exemption. Air permits may also be required for screening operations; however, states are variable as to whether
a permit is required or not – even in a situation where emissions are negligible. Whether or not an air permit is required, a facility is required to meet general air pollution requirements for fugitive dust (incidental, non-point source dust) and point sources.

**Water Programs - NPDES (National Pollutant Discharge Elimination System) and Others**

A General Storm Water Permit may be required at any facility at which coal, synfuel, or coal combustion products (“CCPs”) are processed, transferred, or stockpiled, or at which CCPs are otherwise exposed to the environment. Company manufacturing operations may also require a storm water permit if storm water leaves the facility. Facilities or operations performing a structural fill or other construction project that disturbs over one acre require a Construction storm water permit. Projects that alter a wetland a stream may also require a water permit. Each facility that has a general industrial or construction based storm water permit will also require a Storm Water Pollution Prevention Plan (SWPPP). Facilities with any type of storm water permit require annual storm water training of employees involved in activities that may pollute storm water. At utility or client property on which the company operates, a client’s water permit may be in place; the Facility Manager must check with the client to assure that all water program requirements are covered prior to operation.

Industrial wastewater discharges to waters of the United States, other than storm water, and/or to a POTW may also require a specific permit.

**Solid Waste Management and Disposal Permits**

These permits are generally required for structural fills, some transfer facilities and reclamation projects. Permits for clients’ landfills are generally held by the client. Very often, structural fills will also require NPDES storm water permits if they are greater than one acre. They may also require local land disturbance and/or erosion and sediment permits. At manufacturing facilities, care must be taken when managing rejected materials onsite, as this activity may trigger the requirement for a landfill permit. Contact the Environmental staff to discuss options on managing rejects, unused and unwanted raw materials, or unwanted finished products.

**SARA TITLE III - Community Right-to-Know**

This program is comprised of two components commonly referred to as Tier II Reporting and Toxic Release Inventory or TRI Reporting. Tier II Reporting is an emergency preparedness program and deals with notifications to appropriate state and local authorities when certain hazardous substances (not hazardous wastes) are present at a facility above threshold quantities. Hazardous substances are generally considered to be any material or substance that requires an MSDS. The normal threshold quantity for reporting is 10,000 pounds. In most instances, the only potential chemical/substances at a facility are diesel, gasoline, latex reagents, cement, concrete admixtures, aggregates and/or fly ash/bottom ash. At a utility site, the utility has most likely taken steps to meet the requirements of this program. Virtually all manufacturing sites are in this program. Terminal or transfer facility sites not on utility property generally need to make their own notification. Structural fills and mine reclamation sites need to be checked on a case-by-case basis with the Regional or Corporate Environmental Manager.
TRI Reporting is required for facilities that exceed a specific threshold for listed materials that are manufactured, processed, or otherwise used. The thresholds are 25,000 pounds, 25,000 pounds, and 10,000 pounds respectively. The list of materials that must be evaluated against these thresholds include heavy metals and organic compounds. Certain materials referred to as potentially bioaccumulative toxics or PBTs have much lower thresholds, including lead at 100 pounds and mercury at 10 pounds. These low thresholds impact facilities like block and stucco plants because of the lead and/or mercury inherent in the raw materials. Facilities that trigger one or more of these thresholds are required to complete and submit annual TRI Reports to EPA and their own state on forms provided by EPA. These reports provide a detailed account of any releases of the specific material to the environment through air, water, or solid waste disposal.

Hazardous Wastes

For most facilities, no hazardous wastes are handled at company facilities, with the exception of small quantities of spent solvents used with parts cleaners and solvent rags. Parts cleaners are usually exempt from the hazardous waste program if conditionally exempt small quantity generator (CESQG) status is maintained. Generation and accumulation of less than 220 pounds of hazardous waste per month, will maintain CESQG status. However, it is still important to maintain receipts and documentation of quantities guaranteed to verify quantities used. If the client handles hazardous wastes on site, be aware of additional record keeping requirements they may need. If you handle any other wastes, particularly in shops and garages, which you believe may be hazardous (toxic, reactive, ignitable or corrosive), or if you generate more that 220 pounds of hazardous waste per month contact the Regional or Corporate Environmental Manager immediately so that a hazardous waste program can be developed for your facility.

Universal Waste

A particular class of hazardous waste that is regulated and managed differently than all other hazardous wastes is referred to as “Universal Waste”. Currently, Universal Wastes are limited to batteries, mercury thermostats, mercury-containing fluorescent light tubes, and pesticides. (In California this list is larger.) Industrial facilities that generate Universal Waste are classified as Small Quantity Handlers (SQH) if they accumulate less than 5,000 kilograms (11,000 pounds) of Universal Waste at any time or Large Quantity Handler (LQH) if they accumulate more than 5,000 kilograms (11,000 pounds) of Universal Waste at any time. SQH’s, which include virtually all Headwaters facilities, are not required to notify EPA of Universal Waste Handling activities. Facilities with LQH status are required to notify EPA of Universal Waste Handling activities. SQH and LQH facilities are required to manage Universal Wastes as described in the Federal Regulations. In summary, for most facilities involved, this should include a small amount of additional recordkeeping, training and use of sound recycling practices for these particular items.
SPCC – (Spill Prevention Control and Countermeasure – oil spill prevention)

If more than 1,320 gallons of petroleum product (diesel fuel, hydraulic oils, gasoline, lube oils, etc.) is stored above ground in containers with a volume greater than or equal to 55 gallons, and that petroleum product has the potential to reach water (you cannot consider dikes, berms or any other manmade structure when you evaluate the potential to reach water) - then an SPCC Plan is required for the facility. If the petroleum product tanks and containers at the facility are under utility or client ownership or control, the client may maintain an existing Plan. Facility Managers must verify if products are covered by an existing Plan.

Used Oils

Used oil should either by handled by the client or by a heavy equipment servicer. If used oil cannot be handled in this manner, identify a reputable oil recycler and monitor all dealings with it. Oil recyclers are only allowed to perform certain activities with oils. Question and verify the legitimacy of any oil recycler. If you handle bulk quantities of used oil contact the Regional or Corporate Environmental Manager. All containers of Used Oil, regardless of size, must be labeled “Used Oil”.

Toxic Substances Control Act (TSCA)

The Toxic Substances Control Act (TSCA) of 1976 was enacted by Congress to give EPA the ability to track the 75,000 industrial chemicals currently produced or imported into the United States. EPA repeatedly screens these chemicals and can require reporting or testing of those that may pose an environmental or human-health hazard. EPA can ban the manufacture and import of those chemicals that pose an unreasonable risk.

Any facility contemplating manufacture or import of any chemical should contact the Corporate Environmental Staff immediately to determine pre-manufacture/import notification requirements and potential Inventory Update Reporting (IUR) requirements. As the company grows, facility managers must recognize whether they manufacture or import chemicals and actively enlist assistance from the Environmental Staff in determining if TSCA applies. Questions about TSCA should be directed to the Corporate or Regional Environmental Managers.
SECTION VII  
TRAINING 

The purpose of this section is to provide guidance for conducting training of facility employees.

Personnel training programs are essential for safe working conditions and efficient operations at company facilities. Training must adequately prepare new employees to work within the parameters of their job description, and must reinforce current employees’ knowledge of safe operating practices. Training must also address emergency response information. Company employees must be adequately trained to ensure that all operations are performed in a safe manner and in compliance with federal, state, and local (including tribal where applicable) regulations. These requirements are separate from OSHA Health and Safety requirements at facilities. For those requirements, please refer to the Company Health and Safety Policies and Procedures Manual.

The responsibility for training of the company’s personnel with regard to environmental matters lies jointly with the Facility Manager and the Environmental Staff. Training programs are arranged by the Facility Manager and supported by the Environmental Staff and the Legal Department. Certain permits and regulations require training at regular intervals. In some instances, documentation of training and training programs is required. Annual formal training of employees must be documented at those facilities with General Storm Water Permits. The level of training required is specified in the individual facility Storm Water Pollution Prevention Plans. Annual training is also required for all facilities that handle Universal Waste and for any facility with a SPCC Plan. All new hires must receive environmental training regarding their position and the facility at which they work within 30 days of their initial employment.

Training must adequately familiarize facility personnel with proper hazardous materials procedures, facility operations, emergency procedures and use of emergency equipment systems, conditions of the facility’s permit, best management practices, and pertinent environmental, health and safety regulations.

Employees must complete the training appropriate to the responsibilities of their job before beginning unsupervised work. This training will consist of initial classroom training, on-the-job training, and annual update training. All training conducted must be accurately and consistently documented.

The training program must include provisions to allow for updates or reviews of the training program, as necessary to ensure compliance with the terms of the facility’s permit and/or applicable regulations. Copies of any required training program or operations/maintenance manual must be kept on file at the operating facility for review by state, federal, and local (and tribal, where applicable) regulatory officials.
SECTION VIII
EMERGENCY PREPAREDNESS and RESPONSE

The purpose of this section is to provide guidelines for the preparation for, and response to, an emergency environmental condition.

Emergency conditions are generally caused by the upset or failure of normal operating procedures or equipment. Company facilities, in general, store only a limited number of materials in any quantity that could likely cause an environmental emergency condition. These materials include, but are not limited to, coal, latex reagents, synfuel, coal fly ash, cement, and diesel fuel. These materials, if stored in significant quantity, are registered with local, regional, and state emergency response organizations under the emergency planning and community right-to-know laws that we refer to as ‘SARA III’.

The most effective emergency preparedness measures are to ensure sound operating practices and to constantly adhere to the environmental program fundamentals. All company facilities have posted emergency response contact phone numbers. These numbers include company, local, and state contact numbers that require notification of upset and emergency conditions. Should normal operating procedures fail, or natural conditions occur that disrupt normal operations, and an environmental emergency condition arise, the following actions are to be undertaken:

- Take any immediate action to contain the spill or release that does not endanger the responder (e.g. dike area; apply absorbent, turn off pumps, conveyors, fans, valves, etc.).
- Evacuate immediate area of spill.
- Verify identity of spilled material.
- Notify primary or secondary emergency company contacts.
- Notify appropriate response centers.
- Make necessary arrangements for cleanup and disposal.
- Assess incident and revise applicable plans accordingly.

If someone at the facility has received the required training and certification, the following steps may be taken to clean up the spill or release:

- Determine proper handling precautions (see MSDS).
- Secure appropriate personal protective equipment.
- Close off appropriate valve or take other action to stop the leak.
- Remove sources of ignition.
- Control and contain the spill, neutralize if necessary.
- Collect spilled material (vacuum, absorb, pump, or other as necessary).
- Transfer collected material to recover container.
- Decontaminate area.
- Label recovery container.
- Contact the Environmental Staff regarding storage and disposal.

Report and record the following information:

Environmental Compliance Policy (DRAFT)
Dated March 2006 – Revision 11
• Name, address and phone number of person reporting.
• Exact Location of the spill.
• Company name and location.
• Material spilled.
• Estimated quantity.
• Source of spill.
• Cause of spill.
• Action taken for containment and cleanup.

Report all spills or releases to the Corporate Environmental Manager or a Regional Environmental Manager or the head of the Regulatory Compliance Section within two hours of occurrence. Contact Numbers are:

• Tom Schmaltz (office) 706. 549.7903
• Tom Schmaltz (cell) 404.661.5485
• Steve Van Ootegham (office) 801.984.3777
• Steve Van Ootegham(cell) 801.953.4408
• Doug Martin (office) 484.947.2211
• Doug Martin (cell) 610.733.3099
• Mike Hampton (office) 801.984.9498
• Mike Hampton (cell) 801.201.7322

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
SECTION IX
COMMUNICATIONS

The purpose of this section is to provide general guidelines for facilitating environmental compliance communications as well as the transfer of critical regulatory information between the corporate office and the company’s facilities as well as among facility personnel. The company recognizes the importance of providing a network for communicating relevant environmental compliance issues between the company’s facilities and corporate management, and between facility management and all facility personnel.

INTERNAL COMMUNICATIONS

Corporate-Facility Information Transfer

Environmental regulations in the United States are in an almost constant state of change. The US EPA regulates all environmental media including; air, water and land. Programs responsible for the protection of air, water, and land are managed, for the most part, independently by individual State programs, leading to almost daily proposal or issuance of new regulations.

In order to remain in compliance with these ever-changing programs, operating facilities must be provided with the information needed to develop new operating procedures, or amend existing ones. It is the responsibility of the company’s Corporate Environmental Manager and the Environmental Staff to analyze proposed and final regulations to determine the effect they will have on company facilities. This information will then be provided to upper management, facility management, and other appropriate staff in a timely manner so that operational and budgetary planning can be conducted.

Information transfer can be conducted through a number of mechanisms including but not limited to; regulatory alerts, newsletters, or seminars and training sessions. Management and staff are encouraged to share information between facilities in order to facilitate solutions to common problems.

On routine issues, communications related to environmental affairs are to be made between the Facility Manager and the Corporate Environmental Staff. Any employees who have environmental questions or concerns should relate them to the Facility Manager. Support and assistance can come from anywhere, particularly Area Operations Mangers and Facility Managers of similar facilities. Facility Managers and the Corporate Environmental Staff may need to coordinate environmental efforts with the Legal Department, Regional Managers, Area Managers or Regional Vice Presidents, depending upon the gravity of the environmental issue. Prudent judgment must dictate the involvement of appropriate persons.

Any environmental upset condition should be immediately reported to the Facility Manager or Corporate Environmental Staff.
Internal Facility Communication

Each Facility Manager is responsible for insuring that facility personnel are provided with all the information needed to conduct their jobs safely and effectively, while remaining in compliance with environmental permit requirements and state, federal, and local (including tribal, where applicable) regulations. To accomplish this, periodic meetings with all plant personnel should be held to discuss environmental compliance issues and plant operating problems and concerns.

Good internal facility communication is dependant on good two-way communication between Facility Managers and the Environmental Staff. Facility Managers should periodically inform corporate of progress and problems with environmental issues. Corporate Environmental Staff must maintain communications as described in the previous section. Facility and corporate management must be notified immediately of any incidents (i.e., spills, fires, explosions, security breaches, etc.) that have the potential to affect the facility’s compliance with federal and/or state environmental laws, rules and/or regulations.

MEDIA COMMUNICATIONS

The company’s policy on communications with media regarding environmental matters is established so that only accurate, non-confidential information is released to the media. Employees are instructed to refer all calls, questions and inquiries from outside the company, to the company’s Director of Investor Relations. In addition, it is the company’s policy for all employees to respond to questions about rumors in the following manner: “It is our policy not to comment about rumors or speculation.”
SECTION X
REGULATORY AUDITS/INSPECTIONS

The purpose of this section is to provide guidance in the event that a representative of a regulatory or other law enforcement agency presents himself at a company facility for the purpose of conducting an inspection, or conducting a search.

Inspections and searches by regulatory agencies and law enforcement agencies may be conducted with or without prior notice. Inspections and searches are usually conducted during regular working hours. Upon arrival, the inspector or law enforcement officer should be directed to the Facility Manager or a designated alternate.

Inspectors or officers should be requested to provide their credentials, and a copy of any subpoena, order, search warrant or other authority under which the inspection or search is being conducted. However, routine (annual, etc.) agency inspections may not be accompanied by a formal request document and the lack of such a document is not grounds to deny entry.

The Facility Manager or a designated alternate should inquire as to the reasons for the inspection or search and which areas of the facility and records will be inspected or searched.

The Facility Manager or a designated alternate must accompany the inspector at all times during the inspection or search. Under NO CIRCUMSTANCES are inspectors to be allowed anywhere within the facility without a company representative escort.

If a facility has received prior notice of an inspection or search, facilities should notify the Regional or Corporate Environmental Manager to ensure that they have the appropriate personnel on hand to provide information.

Company facility management may not refuse access to the facility to an inspector from a regulatory agency or law enforcement officer, except under extreme circumstances with the prior approval of the Legal Department.

If an inspection or search becomes unreasonably disruptive the Facility Manager or a designated alternate must contact the Legal Department immediately.

If an inspector or law enforcement officer has access to information or areas of the facility that contains trade secret information, the inspector or law enforcement officer should be informed that such information must be treated with confidentiality. This notification should be provided in writing.

Inspectors and law enforcement officers may take photographs but may be requested to provide copies of such photographs to the facility. Any photographs of trade secret areas or other areas that the company considers sensitive should be requested to be marked confidential. This request should be provided in writing. Where possible, the view of trade secrets should be
blocked. The facility should take its own photographs as well if the inspector takes photos and the photos taken by the facility should be nearly identical to those taken by the inspector.

Inspectors and law enforcement officers may take environmental samples. The facility should document procedures used by the inspector or law enforcement to obtain samples. The facility must also record analyses planned for the samples by the inspecting agency. Facility personnel must observe sampling and obtain sample splits.

Inspectors and law enforcement officers may review all facility operating records and records that reside or will reside in the public domain (e.g. permits). Inspectors and law enforcement officers may not review non-operating business records or legal documents without the prior approval of the Legal Department. In the event that such records are requested, the Facility Manager or a designated alternate must contact the Legal Department.

The Facility Manager must attempt to immediately correct any violations pointed out by the inspection, such as blocked aisles, missing labels, misuse of safety equipment, leaking drums, and other similar conditions.

The Facility Manager must notify the Environmental Staff or Legal Department immediately following the inspector or law enforcement officer presenting himself at the facility.

Copies of all notices of violation or other inspection reports from regulatory agencies must be immediately forwarded to the Legal Department.
Operations Review Checklist

Facility Name: ______________________     Reviewer’s Name: ______________________
Date of Review: _____________________     Plant Manager: ________________________

1. General Housekeeping
   a. All trash, debris, and unusable scrap is cleaned up and properly disposed.
   b. Paved work areas are maintained free of excess dust.
   c. Dumpsters are not overfilled and are kept closed when not in use.
   d. Mobile and other oil-containing equipment is stored in a location that minimizes risk to the environment.
   e. Raw materials and recyclables (cardboard, pallets, plastics, recyclable rejects, used oil, batteries, fluorescent lights, mercury switches, etc.) are maintained in designated location(s) that minimize potential environmental risk.
   f. The tops of silos and areas around silos are free of raw materials.
   g. Small spills are immediately cleaned up.

2. Liquid Materials Management
   a. Secondary containment structures are functioning properly (no cracks, leaks, seepage, etc.).
   b. Liquid within secondary containment is periodically removed and disposed of as used oil or oily waste (oil) or drained if not contaminated (water).
   c. Areas where liquids are stored and maintained are free of visible spills or leaks.
   d. Empty drums are completely empty and stored so as not to accumulate water (closed bungs, tops in place, on their sides).
   e. Piping and/or hoses from hydraulic and similar oil-containing equipment are free of leaks.
   f. All liquid storage containers 55 gallons or greater are free of leaks.
   g. Containers without secondary containment are stored in a manner to minimize the risk of a leak or spill reaching water by:
      i. Being away from drains unless the drains are covered or plugged.
      ii. Being away from creeks, rivers, other waterways.
      iii. Being under cover whenever possible.
   h. Storm water and process water are always separate.

3. Solid Materials and Product Management
   a. Aggregate materials (pumice, gravel, sand, shale, etc.) are neatly stored in a designated and managed location.
   b. Solid materials are covered whenever possible.
   c. Rejects are stored in a manner to minimize solids runoff (covering, minimize fines content, etc.).
d. Storage containers (silos, hoppers, bins, bunkers, etc.) are properly maintained (no leaks, cracks, significant structural degradation, etc.)

e. Finished product is properly packaged and stored in the correct manner to minimize exposure to storm water.

f. Excess pallets are neatly stacked and excess inventory is minimized.

4. Vehicle Fueling and Preventive Maintenance
   a. Fueling hoses and connections are leak-free.
   b. Fueling nozzles and hoses are stored in a way to prevent uncontained spills or leaks.
   c. Small spills are responded to and cleaned up immediately.
   d. Vehicle maintenance activities are conducted in a manner to minimize exposure to storm water.

5. Dust Control
   a. There are no visible emissions from baghouses or bin vent filters.
   b. Methods of dust control for roadways and work areas are in place and adequate.
   c. Dust-producing equipment (crushers, screens, pug mills, conveyors, etc.) is equipped with proper dust control.
   d. Pneumatic material-transfer lines are properly operated and maintained to minimize dust.
   e. Silo overfill protection measures (high level alarm, fill policy, etc.) are in place and effective.

6. Waste Management and Reduction
   a. Items including but not limited to cardboard, pallets, plastics, recyclable rejects, used oil, batteries, fluorescent lights, mercury switches, etc. are managed by recycling wherever possible.
   b. Waste containers (dumpsters, roll-offs, etc.) are of adequate size and the frequency of removal is adequate to avoid overflow.
   c. Different types of wastes, especially those that might not be safely compatible, are separated.
   d. Liquid wastes (used oil, solvents, additives, etc.) are labeled and stored in contained areas.
   e. All hazardous wastes are properly containerized in labeled containers that are stored in specified hazardous waste storage areas.

7. Spill Response
   a. The facility has adequate spill response materials (absorbents like kitty litter, pumice, etc.; pads, boom, etc.) readily available.
   b. Employees have been given training on how to respond to spills.
   c. This facility has a defined spill response procedure.
8. Container and Equipment Labeling
   a. All containers containing used oil are labeled “Used Oil”.
   b. Containers of Universal Waste; i.e. fluorescent light tubes, batteries, and mercury switches, are appropriately labeled.
   c. Containers of hazardous waste are properly labeled.
   d. Air emissions equipment is properly labeled (as required by individual permits).

9. Monitoring, Sampling, and Inspections
   a. All storm water samples are taken timely.
   b. Visible emissions are monitored as required in site permits.
   c. Dust control devices (baghouses, bin vent filters, sweepers, etc.) are routinely inspected and properly maintained.
   d. All required stack/emissions testing is completed on time and for the correct parameters.

10. Recordkeeping
    a. All emission test records are current and maintained for at least three years.
    b. All dust control device maintenance records are maintained and up to date. are current and maintained for at least three years.
    c. Throughput records are current and maintained for at least three years.
    d. Records of hours of operation are current and maintained for at least three years.
    e. All discharge monitoring records are current and maintained for at least three years.
    f. Waste disposal records (hazardous waste manifests, solid waste manifests, used oil manifests) are available and maintained for at least three years.
    g. Records of any environmental incidents are available and maintained for at least three years.
    h. Past reports; i.e. DMRs, excess emission reports, annual emission/throughput reports, etc. are maintained and available for at least three years.
    i. Training records for programs like SPCC, Stewardship, and Storm Water are current and available.

11. Planning and Training
    a. The facility Storm Water Pollution Prevention Plan (SWPPP) is current and available.
    b. The Spill Prevention Control and Countermeasure (SPCC) Plan is current and available.
    c. A current Storm Water Training Program is in place and being used.
    d. A current SPCC and/or Environmental Stewardship Training Program is in place and being used.
    e. Other required plans (Fugitive Dust Control Plan, RCRA Contingency Plan, etc.) are current and available.
12. Reporting
   a. DMRs are completed and submitted on time.
   b. Annual throughput and emissions reports are completed and submitted on time.
   c. Annual Storm Water Compliance Evaluation reports are completed in a timely manner and available.
   d. Tier II reports are completed and submitted on time.
   e. TRI Reports are completed and submitted on time.
   f. Annual environmental fees are paid on time.
# Wellington – Air and Water Compliance

## 1. Task Summary

### 1.1. Overview

- Please verify the configuration settings in the task summary and complete any unfilled cells.

<table>
<thead>
<tr>
<th>Task (Air/Water)</th>
<th>Person Assigned</th>
<th>Frequency</th>
<th>Due Date</th>
<th>Reminder Frequency</th>
<th>Person to Receive Reminder Notifications</th>
<th>Overdue Frequency</th>
<th>Person to Receive Overdue Notifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daily Coal Processed (Air)</td>
<td>Mike Gipson, Plant Manager</td>
<td>Daily</td>
<td>Next Day</td>
<td>None</td>
<td>Person assigned only</td>
<td>Once per week, until complete</td>
<td>Person assigned, Keith Thompson, Business Unit VP</td>
</tr>
<tr>
<td>Daily Baghouse Pressure Drop Readings (Air)</td>
<td>Mike Gipson, Plant Manager</td>
<td>Daily</td>
<td>Next Day</td>
<td>None</td>
<td>Person assigned only</td>
<td>Once per week, until complete</td>
<td>Person assigned, Keith Thompson, Business Unit VP</td>
</tr>
<tr>
<td>Annual Facility Task – Baghouse Inspection (Air)</td>
<td>Mike Gipson, Plant Manager</td>
<td>Annual, 1/1</td>
<td>12/31</td>
<td>Quarterly Reminders</td>
<td>Person assigned only</td>
<td>Once per week, until complete</td>
<td>Person assigned, Keith Thompson, Business Unit VP</td>
</tr>
<tr>
<td>Monthly Dust Suppression Activity Recordkeeping Task (Air)</td>
<td>Mike Gipson, Plant Manager</td>
<td>Monthly</td>
<td>1 Week</td>
<td>None</td>
<td>Person assigned only</td>
<td>Once per week, until complete</td>
<td>Person assigned, Keith Thompson, Business Unit VP</td>
</tr>
<tr>
<td>Quarterly Visual Observation and Facility Inspection (Water)</td>
<td>Mike Gipson, Plant Manager</td>
<td>Quarterly, calendar</td>
<td>2 Months</td>
<td>Weekly reminders, starting one month before due date</td>
<td>Person assigned only</td>
<td>Once per week, until complete</td>
<td>Person assigned, Keith Thompson, Business Unit VP</td>
</tr>
</tbody>
</table>
1.2. Upload File Tasks Notes

- All tasks requiring a file to be uploaded will contain the following: 1) a comments box, 2) validation checkbox requiring the user to manually indicate that the documents were uploaded.

<table>
<thead>
<tr>
<th>Field</th>
<th>Display Name</th>
<th>Type</th>
<th>Is Required</th>
<th>Validation</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comments</td>
<td>Comments</td>
<td>Text Area</td>
<td>No</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>File Upload</td>
<td>Upload File</td>
<td>File Upload</td>
<td>Yes</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Upload Acknowledgement</td>
<td>Did you upload files?</td>
<td>Yes/No</td>
<td>Yes</td>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>

2. Tasks

2.1. Daily Coal Processed

2.1.1. General

- Does the facility run 7 days a week? If so, how should we handle Saturday and Sunday entries? The facility may change its schedule during the year. Let’s set this up with a day/date field so that the form has an entry for every day and on those days that the facility does not operate, a notation will be made to this effect when the next operation day readings are made.
2.1.2. Fields

<table>
<thead>
<tr>
<th>Field</th>
<th>Display Name</th>
<th>Type</th>
<th>Is Required</th>
<th>Validation</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coal Processed</td>
<td>Coal Processed</td>
<td>Text Field</td>
<td>Yes</td>
<td>Whole Number</td>
<td>Tons</td>
</tr>
</tbody>
</table>

2.2. Daily Baghouse Pressure Drop Readings.

2.2.1. General Questions

- Does the facility run 7 days a week? If so, how should we handle Saturday and Sunday entries? The facility may change its schedule during the year. Let's set this up with a day/date field so that the form has an entry for every day and on those days that the facility does not operate, a notation will be made to this effect when the next operation day readings are made.

- Confirm 1 task for the three readings. One task, three readings.

2.2.2. Fields

<table>
<thead>
<tr>
<th>Field</th>
<th>Display Name</th>
<th>Type</th>
<th>Is Required</th>
<th>Validation</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pressure Drop #1</td>
<td>Pressure Drop Baghouse #1</td>
<td>Text Field</td>
<td>Yes</td>
<td>Whole Number</td>
<td>Inches</td>
</tr>
<tr>
<td>Pressure Drop #2</td>
<td>Pressure Drop Baghouse #2</td>
<td>Text Field</td>
<td>Yes</td>
<td>Whole Number</td>
<td>Inches</td>
</tr>
<tr>
<td>Pressure Drop #3</td>
<td>Pressure Drop Baghouse #3</td>
<td>Text Field</td>
<td>Yes</td>
<td>Whole Number</td>
<td>Inches</td>
</tr>
</tbody>
</table>

2.3. Annual Task.

2.3.1. General Questions

- What information is being captured for the baghouse inspection? Is it the same as all of the others? (Wasn’t specified in Schedule C) Yes, let’s use the information that we are using in the others. Don’t need to have a “Baghouse Differential”, since this is the same as pressure drop reading.

- Is any information captured for the pressure drop device calibration? Just a confirmation that it was performed? Just confirmation, unless a document verifying calibration is received, in which case it should be scanned and saved as a PDF file.
2.3.2. Fields

<table>
<thead>
<tr>
<th>Field</th>
<th>Display Name</th>
<th>Type</th>
<th>Is Required</th>
<th>Validation</th>
<th>Notes</th>
</tr>
</thead>
</table>

2.4. Monthly Recordkeeping Task.

2.4.1. General Questions

- Should this task be started at the beginning of the month to allow the data to be entered as it occurs? Yes

2.4.2. Fields

- **Dust Suppression Section - List**

<table>
<thead>
<tr>
<th>Field</th>
<th>Display Name</th>
<th>Type</th>
<th>Is Required</th>
<th>Validation</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
<td>Date</td>
<td>Date/Time</td>
<td>Yes</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Number of Treatments</td>
<td>Number of Treatments</td>
<td>Text Field</td>
<td>Yes</td>
<td>Whole Number</td>
<td></td>
</tr>
<tr>
<td>Volume Applied</td>
<td>Dilution Ration</td>
<td>Text Field</td>
<td>Yes</td>
<td>Numeric</td>
<td>Units?Gallons</td>
</tr>
</tbody>
</table>

- **Pile Dust Suppression Activity - List**

<table>
<thead>
<tr>
<th>Field</th>
<th>Display Name</th>
<th>Type</th>
<th>Is Required</th>
<th>Validation</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
<td>Date</td>
<td>Date/Time</td>
<td>Yes</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Dust Suppression Applied</td>
<td>Dust Suppression Applied</td>
<td>Text Field</td>
<td>Yes</td>
<td>None</td>
<td>What type of field is this?</td>
</tr>
<tr>
<td>Duration</td>
<td>Duration</td>
<td>Text Field</td>
<td>Yes</td>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>

- **Rainfall Record - List**

2.5. Quarterly Visual Observation and Facility Inspection

2.5.1. General

2.5.2. Fields (See 1.2 Above)

2.6. Annual Sampling

2.6.1. General

2.6.2. Fields (See 1.2 Above – if a document is uploaded)

2.7. Annual SW Training Reminder
2.7.1. General

- Is any information being captured, or is this a simple reminder? Upload a scanned copy of the training log.

2.7.2. Fields – None

2.8. Annual DMR Report Reminder

2.8.1. General

- Is any information being captured, or is this a simple reminder? Upload a scanned (or electronic) copy of the DMR

2.8.2. Fields - None

3. Emissions

- No emissions for the facility

4. Limits

- Confirm that the system should send sanity check threshold warnings when the emissions come within 80% of limit. The system should have the ability to calculate the total coal processed on a rolling 12-month basis. For any 12-month period that the amount exceeds 80%, a sanity check should be sent out indicating how much coal may be processed in the next month so as not to exceed the rolling 12-month limit.

<table>
<thead>
<tr>
<th>Process</th>
<th>Material</th>
<th>Limit</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coal Processed</td>
<td>Coal</td>
<td>1.5 million tons per rolling 12 month period</td>
<td></td>
</tr>
</tbody>
</table>
DAVID S. WILSON, P.E., P.G.

Drexel University, M.S., Civil Engineering (1993)
University of Utah, B.S., Geological Engineering (1988)

SUMMARY OF EXPERIENCE

Mr. Wilson has more than eighteen years of experience in environmental and geotechnical engineering. He is a Professional Engineer, registered in Utah, Wyoming, Oklahoma and Kansas, and a Professional Geologist, registered in Utah. His technical areas of expertise include engineering and environmental geology, hydrogeology, geotechnical engineering, solid and hazardous waste management, and site remediation. He is experienced in site investigations, conceptual engineering, final engineering design, and remedial construction oversight. He has performed investigations, developed hydrogeologic and environmental interpretations, and designed remedial solutions for sites having contaminated sludges, debris, soil, surface water and ground water. His project work has included Remedial Investigations and Feasibility Studies for CERCLA sites, RCRA Facility Investigations and Corrective Measures Studies for RCRA facilities, underground storage tank sites (USTs)/Leaking USTs, and environmental audits, assessments, investigations, and engineering studies under a variety of other state and industry specific programs.

PROFESSIONAL EXPERIENCE

ERM-Rocky Mountain, Inc., Salt Lake City, Utah
(1994 - present)

As a Principal and manager of ERM’s Salt Lake City, Utah office, Mr. Wilson has managed and directed a variety of environmental projects, including environmental assessments, hydrogeologic studies, remedial designs, and hazardous waste management plans. Representative clients and projects are listed below by category.

Facility Development and Infrastructure

List of Clients

<table>
<thead>
<tr>
<th>Safety Kleen (Laidlaw)</th>
<th>Western Slope Refinery</th>
<th>Bloomfield Refining Co.</th>
</tr>
</thead>
<tbody>
<tr>
<td>BNSF Railroad</td>
<td>OCI Wyoming</td>
<td>Kennecott Copper</td>
</tr>
<tr>
<td>Williams Energy</td>
<td>Conagra</td>
<td>Colorado Electric Power</td>
</tr>
<tr>
<td>Tooele County</td>
<td>Tri-State Energy</td>
<td>Alliant Techsystems</td>
</tr>
<tr>
<td>Createrra (Sharon Steel Site)</td>
<td>Mercer (Midvale Slag Site)</td>
<td></td>
</tr>
</tbody>
</table>
Representative Projects

- Provided due diligence, plan development and Soil Management oversight for redevelopment of OU1 of the Midvale Slag Superfund on behalf of the brownfield redeveloper.

- Prepared a Site Modification Plan for Redevelopment for the closed Sharon Steel Superfund site on behalf of the developer who acquired the property for brownfield redevelopment.

- Performed a “Needs Assessment” for the Tooele County Environmental Impact Board to assess the market place for disposal facilities handling low-level radioactive waste (LLRW) and naturally occurring radioactive materials (NORM).

- Designed a 20 acre wastewater treatment lagoon for a potassium mining company to provide aerobic and anaerobic treatment, and complete evaporation of the water without discharge.

- Provided forensic analysis of a failed pond liner for a Colorado electric power plant that was developing a claim against the designer/contractor of the pond.

- Managed the quality assurance program during closure construction activities for three hazardous waste cells at a commercial disposal facility in Utah.

- Prepared "basis of design," construction plans, and specifications for retrofit of two wastewater lagoons to meet minimum technology requirements at New Mexico petroleum refining company.

General Site Remediation

List of Clients

<table>
<thead>
<tr>
<th>U.S. Army - Ft. Wingate</th>
<th>Occidental Chemical</th>
<th>O.C. Tanner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daw Technologies</td>
<td>Crysen Refinery</td>
<td>St. Gobain</td>
</tr>
<tr>
<td>Teleflex Defense Systems</td>
<td>Boyden Medical</td>
<td>Lennar (Country Square)</td>
</tr>
<tr>
<td>Village Cleaners</td>
<td>Campbell Soup</td>
<td>Pep Boys</td>
</tr>
<tr>
<td>SLOC - Olympics 2002</td>
<td>Union Pacific</td>
<td>Mark Miller Toyota</td>
</tr>
<tr>
<td>Questar</td>
<td>Salt Lake City Corporation</td>
<td>Chevron</td>
</tr>
<tr>
<td>BP</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Representative Projects

- Served as Project Coordinator for remediation of the Northwest Oil Drain on behalf of the Working Group responsible for cleanup under an AOC with EPA for removal of hydrocarbon affected sediment from the canal.

- Directed environmental assessments to determine the impacts at several oil & gas fields in Wyoming for development of remedial action plans and site restoration costs for a major natural gas development company.

- Performed geotechnical investigations, siting studies, and preliminary design for a solid/hazardous waste landfill under consideration for a former U.S. Army Base in New Mexico.

- Provided consulting services for removal of abandoned underground "oil/water separation tank" discovered during expansion of a Utah manufacturer's facilities.

- Provided site characterization and engineering services for remediation of ground water impacted by the release of 180,000 pounds of isobutyl alcohol at a chemical plant in Brazil.

- Performed enhanced bioremediation of petroleum contaminated soil at Utah manufacturer's facility using enzyme catalysts.

- Provided sampling/analysis and regulatory support during remediation of lead contaminated soil at an existing shooting range to be developed for the biathlon events during the 2002 Winter Olympic Games.

Remedial Design

List of Clients

<table>
<thead>
<tr>
<th>Martin Marietta</th>
<th>Valeo Refrigerants (Brazil)</th>
<th>U.S. Silica</th>
<th>Bloomfield Refinery</th>
<th>LDS Church</th>
<th>Village Cleaners</th>
<th>Union Pacific</th>
<th>Occidental Chemical</th>
<th>TRW</th>
<th>Conagra - Monford</th>
<th>Chevron U.S.A.</th>
<th>Lenmar (Country Square)</th>
<th>Western Slope Refining</th>
<th>Watson Pharmaceutical</th>
<th>BNSF Railroad - Gallop</th>
</tr>
</thead>
</table>

Representative Projects

- Directed risk assessment and remedial alternatives evaluation for selection of a pump and treat remedy for source area remediation at an automotive part manufacturing plant.
in São Paulo, Brazil; subsequently lead design of a recovery well and air stripper remediation system.

- Managed and designed a multi-layer protective cover for a chemical waste landfill; and designed an LNAPL recovery system for chemical plant in Brazil.

- Performed forensic evaluation of cap movement at a closed hazardous waste landfill for a Colorado aerospace manufacturer.

- Designed a sheet-pile retaining wall to protect a canal during excavation of hazardous sludge at a Utah refinery.

- Prepared solid waste disposal plan, including design of landfill, for solidified petroleum sludge at closed refinery in Colorado.

- Designed an in-situ remediation system for shallow ground water at a dry cleaning facility where perchloroethylene (PCE) had historically been released to the environment.

**Site Characterization and Hydrogeologic Studies**

**List of Clients**

| Union Pacific | Linatex | Village Cleaners |
| Hercules      | Johnson Matthey | Heber Creeper Village |
| Rhodia (Rhone Poulenc) | A & Z Produce | Lennar (Country Square) |
| Columbia Gas | Northrop Grumman | Inland Refining (Crysen) |
| Parsons Behle & Latimer | Holme Roberts & Owens | Questar |
| Safeway Stores | U.S. Construction | Kennecott Copper |
| Occidental Chemical | Phillips 66 | Nielson Construction |
| General Electric | Air National Guard | Honeywell |
| Bountiful City Landfill

**Representative Projects**

- Conducted subsurface investigations at several Utah railroad yards to delineate presence of light non-aqueous phase liquid (LNAPL) plumes; and developed remedial solutions to recover free product and mitigate environmental impacts.

- Performed sampling of landfill compost for metals analysis to assess potential use of compost in reclamation at Utah mine tailings impoundment.

**INTEGRATED**

August 31, 2009

Div. of Oil, Gas & Mining
• Performed statistical analysis of ground water quality data for monitoring of closed RCRA impoundments at Delaware chemical plant.

• Reviewed existing ground water data to assess changes in water quality at former coal gasification facility in Utah.

• Provided hydrogeological and environmental interpretation for third party property owner located adjacent to a site undergoing an RI/FS.

Risk Assessments

List of Clients

Crysen Refinery       Village Cleaners       Teleflex
St. Gobain            Occidental Chemical    TRW (Lucas Varity)
Your Valet Cleaners   Marathon/Husky        Questar
Hercules

Representative Projects

• Directed an environmental assessment, site investigation, risk assessment, site management plan development, and decontamination/demolition of an aerospace, plating operation at a Utah facility.

• Conducted a site investigation and risk assessment, and developed a closure plan for two former refinery sludge lagoons at a Utah petroleum refinery.

• Performed quality assurance testing during decontamination of a former metals plating operation in Utah to ensure acceptable health-risk levels.

• Performed a human health risk assessment on behalf of a chemical plant in Brazil to validate a proposed plan to close a landfill in place beneath a multi-layer protective cover.

• Developed a human health risks assessment based on potential exposures to chlorinated solvents in shallow ground water associated with releases from a dry cleaning facility.

Environmental Assessments and Compliance Audits

List of Clients
Representative Projects

- Performed Phase I assessments and compliance audits at multiple rubber hose and belt manufacturing facilities in Brazil.

- Conducted Phase I and Phase II assessments at an existing warehouse facility to characterize baseline conditions before building occupancy by our client.

- Conducted environmental assessment of existing and proposed railroad and mining facilities to facilitate expansion of mine tailings facility for Utah mining company.

- Delineated wetlands associated with Utah hospital as part of an environmental assessment to facilitate a property transfer.

- Performed a Phase I Assessment and limited compliance audit at a coal mine operation in central Utah.

Environmental Permitting

List of Clients

<table>
<thead>
<tr>
<th>Theratech Pharmaceuticals</th>
<th>Safety Kleen</th>
<th>Jetway</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owens Corning</td>
<td>ICI Explosives</td>
<td>Alcoa (Alumax)</td>
</tr>
<tr>
<td>Montana Brands</td>
<td>Johnson M atthey</td>
<td>Southwire</td>
</tr>
<tr>
<td>Asarco</td>
<td>Cargill</td>
<td>Borden Foods</td>
</tr>
<tr>
<td>Questar</td>
<td>Specialized Bicycle</td>
<td>Air Liquide</td>
</tr>
</tbody>
</table>

| Firestone Building Products | | |

INCORPORATED

August 31, 2009

Div. of Oil, Gas & Mining
Representative Projects

- Developed Storm Water Pollution Prevention (SWPP) Plan and Spill Prevention, Control, and Countermeasures (SPCC) Plan for dairy product manufacturer in Utah.

- Prepared audit checklists for a mining client to assist in the performance of internal audits, with particular emphasis on CERCLA continuous releases, Land Disposal Restrictions, and wetlands.

- Assisted Utah pharmaceuticals manufacturer with review of environmental permits relative to proposed facility expansion.

- Reviewed and updated closure plan for TSCA storage unit operated at a hazardous waste landfill located in Utah.

- Provided regulatory consultation to bring an insulation manufacturing plant into compliance with all environmental regulations, including storm water management, SPCC, air permits, and waste management.

ERM, Inc., Exton, Pennsylvania
(1988 - 1994)

Mr. Wilson served as a project manager, engineer and hydrogeologist on several projects for ERM, Inc. His experience included work on a variety of projects for industrial clients and regulated government agencies. He designed remedial systems for hazardous waste sites requiring stabilization, closure by capping, installation of slurry walls, placement of geosynthetic materials, removal of wastes, and recovery of contaminated ground water. Representative projects are listed below.

General Site Remediation

List of Clients

Amphenol Corporation Arco Chemical Occidental Chemical
Amana Appliances AT&T Hercules
Allied Signal Union Carbide

INCORPORATED
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Representative Projects

- Evaluated the hydrogeology for design of a shallow ground water interceptor trench at New York aerospace component manufacturer.

- Prepared subsurface investigation work plan to evaluate slurry wall and cap containment system for a western Pennsylvania site.

- Directed subsurface investigation, risk assessment, and development of remedies for a chemical plant in Brazil.

- Engineering design and construction observations services during installation of the slurry wall and cap system at an Iowa facility.

- Performed feasibility study for Pennsylvania Superfund site in which plastic recycling and capping were determined to be the most practical alternatives.

- Conducted a Feasibility Study for remediation of a New Jersey Superfund site in which capping alternatives were compared for in-place closure of a solid/hazardous waste landfill.
Remedial Design

List of Clients

- Union Carbide
- Occidental Chemical
- Chrysler Motors
- Exxon
- U.S. Navy
- Mobile Oil
- St. Judes Hospital
- City of Indiana
- Scott Paper
- PNC Realty
- Allied Signal

Representative Projects

- Performed slope stability analysis for design of a landfill cap and gabion well system for a New Jersey landfill.
- Engineered closure for the RCRA units at a Delaware chemical manufacturing facility, including a mercury brine sludge impoundment, a drum storage area, and a carbon tetrachloride tank.
- Evaluated subsurface conditions and designed infiltration gallery system for New Jersey petroleum company.
- Managed conceptual design for removal of LNAPL from ground water at a Maryland petroleum company.
- Detailed design of a 20-foot-deep, 500-foot-long ground water recovery system to intercept and remove contaminated ground water at a Pennsylvania Superfund site.
- Designed landfill gas collection system for closed sanitary landfill in New Jersey.

Site Characterization and Hydrogeologic Studies

List of Clients

- Occidental Chemical
- Union Carbide
- Reichold Chemical
- Allied Signal
- Rohman Has
- Y M C A
- Hazelton Nuclear Power Plant

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August 31, 2009
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Representative Projects

- Prepared work plan and performed geotechnical/geological engineering assessment for Virginia site in Karst terrain.

- Managed Task I, II, III of RCRA Corrective Action Program, including development of a site-wide soil and ground water investigation at Delaware site.

- Managed geotechnical/environmental assessment at Pennsylvania YMCA.

- Directed borehole logging and well installation at a Pennsylvania Power & Light plant that had released sulfuric acid to the ground water.

- Performed contaminant transport analysis in ground water for a Delaware Superfund site to complete a risk assessment and remedial alternatives evaluation.

ADDITIONAL EDUCATION

Subsurface Investigation Methods, University of Wisconsin, 1990.
Designing with Geosynthetics, Geosynthetic Research Institute, 1988

PROFESSIONAL AFFILIATIONS, REGISTRATIONS, AND CERTIFICATIONS

Registered Professional Engineer (Utah, Wyoming, Oklahoma, Kansas)
Registered Professional Geologist (Utah)
Association of Engineering Geologists (AEG)
Utah Certified UST Consultant

PUBLICATIONS and PRESENTATIONS


“Mitigation of Environmental Liabilities at Brazilian Chemical Plant,” 2000. Air & Waste Management Association, 2000 Annual Meeting. Salt Lake City, Utah

“Environmental Ethics,” 2003. Utah Environmental Symposium, Salt Lake City, Utah

APPENDIX 1-3

Property Warranty Deeds
CORRECTIVE SPECIAL WARRANTY DEED

COVOL ENGINEERED FUELS, LLC, a Limited Liability Company, organized and existing under the laws of the State of Utah, with its principal office at 10653 S. River Front Parkway, Suite 300, South Jordan, Utah, 84095, as Grantor, hereby CONVEYS and WARRANTS against all claiming by, through or under, to BOWIE REFINED COAL, LLC, a limited liability company organized and existing under the laws of the State of Delaware, with its principal office at 6100 Dutchmans Lane, 9th Floor, Suite 900, Louisville, Kentucky 40205, as Grantee, for the sum of ten dollars and other good and valuable consideration, the following described tract of land in Carbon County, State of Utah, to-wit:

SEE ATTACHED EXHIBIT A

**"This Corrective Deed is being recorded to correct the name of the Grantee in the Deeds recorded on January 23, 2013, as Entry #'s 817894, 817895, 817896, and to reflect the true purchaser."

Witness the hand of said grantor, this 23rd day of January, 2013.

COVOL ENGINEERED FUELS, LLC
A Utah limited liability company

By:

Donald P. Newman, Chief Financial Officer

STATE OF UTAH
} SS.
COUNTY OF SALT LAKE

On the 4th day of February, 2013, personally appeared before me Donald P. Newman, who being duly sworn did say that he is the Chief Financial Officer of the above-named limited liability company and that said instrument was signed on behalf of said company by and that said instrument was signed on behalf of said company by authority of Unanimous Written Consent by its Managers, and he acknowledged to me that said company executed the same.

Notary Public

SUSAN EVRE
Commission #901971
My Commission Expires
October 08, 2014
State of Utah

INcorporated

DEC 30 2013
Div. of Oil, Gas & Mining
EXHIBIT A

Parcel 1:

A) Beginning at the Northwest Corner of the Southwest Quarter of the Northeast Quarter of Section 14, Township 15 South, Range 10 East, of the SLB&M; and running thence South 00°26' 51" East 469.62 feet along the Quarter Section Line; thence North 89°30' 07" East 1020.02 feet; thence North 00°26' 51" West 397.84 feet to the Southerly Right of Way Line of an existing County Road known as Ridge Road; thence along said line the following two (2) calls, South 89°23'40" West 293.93 feet; thence 464.66 feet along the arc of a 1456.39 foot radius curve to the right and concave to the South, (chord bears North 81°30' 15" West 462.69 feet) to a point on the 40 acre line; thence along said line South 89°30' 07" West 269.03 feet to the point of beginning.

Excepting therefrom all oil, gas and minerals previously conveyed or reserved.

B) Also, Beginning at the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 14 Township 15 South Range 10 East, SLB&M and running thence North 00°26'51" West 119.35 feet along the Quarter section line to the Southerly right of way line of Ridge Road thence Southeasterly along the arc of a 1456.39 foot radius curve concave Southwesterly 294.72 feet; thence Bears South 66°34'01" East 294.22 feet thence South 89°30'07" West 269.03 feet to the point of beginning.

Excepting therefrom all coal and other minerals previously conveyed or reserved.

Tax Parcel No. 1B-293-2

Parcel 2:

Beginning at a point which lies South 00°26'51" East along the Quarter Section Line 469.62 feet from the Northwest Corner of the Southwest Quarter of the Northeast Quarter of Section 14, Township 15 South, Range 10 East, of the SLB&M; and running thence South 00°26'51" East 852.51 feet to the North Line of the Southeast Quarter of Section 14; thence along said Line North 89°40'58" East 1020.02 feet; thence North 00°26' 51" West 855.73 feet; thence South 89°30' 07" West 1020.02 feet to the point of beginning.

Subject to a 100 foot wide Railroad Easement being 50 feet on each side of the following described centerline:

Beginning at a point which lies North 00°26' 51" West along the Quarter Section Line 117.37 feet from the Southeast corner of the Northeast Quarter of Section 14, Township 15 South, Range 10 East, of the SLB&M; thence 167.36 feet along the arc of a 200.00 foot radius curve, concave to the Southwest, (chord bears South 66°05'14" East 164.16 feet) to a point 50.00 feet from the North line of the Southeast Quarter of Section 14; thence North 89°40'58" East 870.48 feet to the point of terminus.

Excepting therefrom all oil, gas and minerals previously conveyed or reserved.

Tax Parcel No. 1B-293-3

Subject to all existing easements and rights-of-ways of record, and all prior interests or conveyances of oil, gas and mineral rights however evidenced.
LEASE AGREEMENT
(Wellington Facility)

THIS LEASE AGREEMENT ("Lease") is entered into and effective as of January 16, 2013 (the "Effective Date"), by and between (i) BOWIE REFINED COAL, LLC, a Delaware limited liability company ("Landlord"), and (ii) BRC WELLINGTON, LLC, a Delaware limited liability company ("Tenant"; Tenant and Landlord each being a "Party" and together "Parties").

RECITALS

WHEREAS, Landlord is the owner of certain real property, situated in the County of Carbon, State of Utah, more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Leased Premises"), but excepting the refined coal production facility located on the Leased Premises to the extent it constitutes real property ("Facility"). Tenant owns and shall continue to own the Facility, subject to the provisions of this Lease.

WHEREAS, Tenant desires to lease the Leased Premises from Landlord, and Landlord desires to lease the Leased Premises to Tenant, all upon the terms and conditions contained herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS. The following terms used in this Lease shall have the following meanings:

   (a) "Affiliate" shall mean any Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified. For purposes of this definition, "control" means the power, direct or indirect, to direct or cause the direction of the management and policies of the relevant Person, whether by ownership of securities, contract, law or otherwise.

   (b) "Designated Uses" shall mean the operation of the Facility by Tenant or an operator designated by Tenant to produce Refined Coal.

   (c) "Effective Date" shall have the meaning given in the first paragraph hereto.

   (d) "Encumbrance" shall mean any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

   (e) "Facility" shall have the meaning given in the Recitals hereto.

   (f) "Governmental Authority" shall mean any court, board, agency, licensing agency, commission, office or authority or any governmental unit (federal, state, county, district, municipal, city or otherwise), whether now or hereafter in existence.

   (g) "Invoice" means the amount set forth in the invoice to which such amount refers.

   (h) "Inventory" means all goods, merchandise, materials, supplies and equipment of any nature, including any and all furniture, fixtures, machinery, equipment, and the like, and all other personal property located on the Premises, whether or not owned by Tenant or Landlord.

   (i) "Leased Premises" shall mean the real property described in Exhibit A, attached hereto and incorporated herein, together with all improvements thereon, appurtenances thereto, and any interest in water and drainage rights or other rights or interests in or to any watercourse or stream.

   (j) "Lease" means this Lease Agreement, together with all exhibits, rider(s), and addenda hereto and all amendments thereto.

   (k) "Leasing Agent" shall mean the leasing agent or leasing manager of the Landlord.

   (l) "Leasing Agreement" means any lease or lease agreement entered into by Landlord and Tenant or any of their respective Affiliates, whether now or hereafter in existence.

   (m) "Leasing Office" shall mean the office of the Landlord where the Leasing Agent is employed.

   (n) "Lot" shall mean any portion of the Leased Premises, including any easements, rights of way or other privileges or interests in or to the Premises.

   (o) "Net Annual Rent" shall mean the annualized amount of the Rent, calculated on a calendar year basis.

   (p) "Premises" shall mean the real property described in Exhibit A, together with all improvements thereon, appurtenances thereto, and any interest in water and drainage rights or other rights or interests in or to any watercourse or stream.

   (q) "Property" shall mean the real property described in Exhibit A, together with all improvements thereon, appurtenances thereto, and any interest in water and drainage rights or other rights or interests in or to any watercourse or stream.

   (r) "Rent" means the sum of the Base Rent, OverRent, and the Additional Rent, as set forth on the Rent Schedule attached hereto and incorporated herein by reference.

   (s) "Realty Taxes" means any real property taxes, assessments, levies, fees, or similar charges imposed by any governmental authority or political subdivision for the maintenance of public property, public services or any public purpose.

   (t) "Refined Coal" means all coal of the Refined Coal Type as defined in Exhibit C attached hereto and incorporated herein by reference.

   (u) "Refined Coal Production Facility" means the facility used to produce Refined Coal.

   (v) "Reserved Liens" means any liens existing in the_refs of the Leased Premises prior to the execution of this Lease, which liens are not the result of Tenant's default in the performance of this Lease.

   (w) "Tenant" means BRC WELLINGTON, LLC, a Delaware limited liability company.

   (x) "Title" shall mean the title to the Leased Premises, with no restrictions or encumbrances except for the Reserved Liens, if any.

   (y) "Useful Life" shall mean the estimated number of years of useful life, if any, of the Facility.

   (z) "Warranty Period" shall mean the period following the Effective Date during which Tenant is entitled to receive the warranty services described in Exhibit D attached hereto and incorporated herein by reference.

   (AA) "Whistleblower Protection Agreement" shall mean the whistleblower protection agreement entered into by Tenant and Landlord.

   (BB) "Work" shall mean all work to be performed by Tenant, whether required or optional, and whether or not described in Exhibit D attached hereto and incorporated herein by reference.

   (CC) "Year" means a 12-month period, commencing on the Effective Date.
(g) "Hazardous Material" shall mean any hazardous or toxic substance, material or waste which is or becomes regulated by any federal, state or local Governmental Authority, including without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to § 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317), (iv) defined as a "hazardous waste" pursuant to § 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903), (v) defined as a "hazardous substance" pursuant to § 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601), or (vi) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. § 6991 et seq. (42 U.S.C. § 6991).

(h) "Improvements" shall mean the Facility and all improvements, machinery, equipment, fixtures, facilities, structures and personal property of every kind and description that may be erected or placed on the Leased Premises by or on behalf of Tenant during the Term that are currently or shall in the future be owned, leased or otherwise controlled by Tenant.

(i) "Indemnified Party" shall have the meaning given in Section 17.1 hereto.

(j) "Indemnifying Party" shall have the meaning given in Section 17.1 hereto.

(k) "Landlord" shall have the meaning given in the Preamble hereto.

(l) "Leased Premises" shall have the meaning given in the Recitals hereto.

(m) "Legal Requirement" shall mean any federal, state, local, municipal, foreign, international, multinational, or other Order, constitution, law, ordinance, principle of common law, regulation, statute or treaty.

(n) "LLC Agreement" shall mean the Limited Liability Company Agreement of DB RC Investments II, LLC, of even date herewith.

(o) "O&M Agreement" shall mean the Operation and Maintenance Agreement, dated as of the date hereof, by and between DB RC Investments II, LLC, Tenant, BRC Minuteman, LLC, BRC Rock Crusher, LLC, BRC Alabama No. 5, LLC, BRC Greenfuels, LLC, BRC Alabama No. 4, LLC, BRC Alabama No. 7, LLC, BRC Chinook, LLC, BRC Alabama No. 3, LLC and BRC Pinnacle, LLC, and Bowie Refined Coal, LLC.

(p) "Operator" shall have the meaning set forth in the O&M Agreement.

(q) "Order" shall mean any award, decision, injunction, judgment, writ, decree, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Authority or by any arbitrator.

(r) "Parties" shall have the meaning given in the Preamble hereto.

(s) "Permitted Encumbrance" shall mean:
(1) minor defects and irregularities in title with respect to the Leased Premises that do not interfere with the present use of the Leased Premises or the operation of the Facility;

(2) all Encumbrances of record against the Leased Premises, wherever found in the chain of title, that do not interfere with the present use of the Leased Premises or the maintenance and operation of the Facility;

(3) any conditions with respect to the Leased Premises that may be shown by a current survey that do not interfere with the present use of the Leased Premises or the operation of the Facility;

(4) zoning, building and other similar restrictions imposed by law, Encumbrances by operation of law or statute, including, without limitation tax liens, landlord’s liens and mechanic’s or materialman’s liens, for amounts that are not yet due and payable or are being contested in good faith through appropriate proceedings; and

(5) any Encumbrances set forth on the title commitment attached hereto as Exhibit A.

(t) "Person" shall mean any individual, sole proprietorship, corporation, general partnership, limited partnership, limited liability company, joint venture, association, joint stock company, bank, trust, estate, unincorporated organization, Governmental Authority, endowment fund or other form of entity.

(u) "Refined Coal" shall mean "refined coal" within the meaning of Section 45(c)(7) of the Internal Revenue Code of 1986, as amended ("Code"), as in effect prior to amendment by the Energy Improvement and Extension Act of 2008 (P.L. 110-343).

(v) "Rent" shall have the meaning given in Section 4 hereto.

(w) "Restoration Obligations" shall have the meaning given in Section 15.2(a) hereto.

(x) "Rules" shall have the meaning given in Section 19.1 hereto.

(y) "Tenant" shall have the meaning given in the Preamble hereto.

(z) "Term" shall have the meaning given in Section 3 hereto.

2. DEMISE. For and in consideration of the covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed by the Parties, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the Leased Premises, together with all rights, privileges, easements, and appurtenances belonging to or in any way pertaining to the Leased Premises.

3. TERM OF LEASE. The term of this Lease shall be ten (10) years from the Effective Date ("Term").
4. **Rent.** During the Term, Tenant shall pay to Landlord annual rent ("Rent"), in advance, in the amount of One Thousand Dollars ($1,000.00). The first rental payment will be due on the date that is 90 days after the Effective Date. Subsequent rental payments are due on the first calendar day of each year thereafter.

5. **Taxes.**

5.1 **Landlord’s Obligations.** Landlord shall be liable for and pay before they become delinquent or any penalty accrues thereon, all real property taxes levied and assessed against the Leased Premises, any improvements owned by Landlord and any real property that is part of the same tax parcel as the Leased Premises, including any taxes resulting from a reclassification of the Leased Premises because of installation of the Facility; provided, however Tenant shall reimburse Landlord for the increase in the real property taxes resulting from installation of the Facility or any reclassification of the Leased Premises (or part thereof) because of installation of the Facility within thirty (30) days of submission of proof of payment by Landlord. Landlord and Tenant agree to work together to minimize the tax effects of any increase in taxes and reclassification of the Leased Premises and any resulting taxes, penalties or interest. It is a condition to Landlord’s right to reimbursement hereunder that Landlord submit the property tax appraisal and property tax bill (or copy thereof) to Tenant within thirty (30) days after Landlord receives each of the same from the taxing authority. Landlord shall pay before delinquency all real property taxes and shall promptly send to Tenant evidence of payment of the same. If Landlord fails to pay such real property taxes when due, Tenant shall have the right, but not the obligation, to pay any delinquent taxes and charges on Landlord’s behalf and charge or offset said payments against the Rent next payable by Tenant. In the event that a charge or offset of said payments is unavailable, failure of Landlord to reimburse Tenant for payments for delinquent taxes shall constitute an event of default under this Lease. Tenant may contest the legal validity or amount of any tax assessment, classification of the property, or amount of such real property taxes for which it is responsible under this Lease and may institute such proceedings as it considers necessary, provided that Tenant shall bear all expenses in pursuing such contest or proceeding. Landlord agrees to render to Tenant all reasonable assistance in contesting the validity or amount of any such real property taxes, including joining in the signing of any reasonable applications requests for exemption, protests, or pleading which Tenant may deem advisable to file; provided, however, that Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses, including reasonable attorney’s fees incurred in connection with providing such assistance within thirty (30) days of submission of proof of payment by Landlord. If requested by Tenant, Landlord will pay any real property taxes under protest in order to preserve the right to petition for refund. If the taxing authorities will agree to provide a separate assessment and tax statement for the portion of the real property taxes levied against or allocated to the Facility, Tenant agrees to pay such real property taxes directly to the taxing authorities, and Landlord agrees to pay the remainder of the real property taxes levied against or allocable to the land, any improvements owned by Landlord and any real property that is a part of the same tax parcel as the Leased Premises. Landlord and Tenant each agree to indemnify and hold each other harmless from any liability, cost or expenses if either Party should fail to pay its portion of such real property taxes.

5.2 **Tenant’s Obligations.** Tenant shall be liable for the personal property taxes, or any taxes assessed or levied upon production of Refined Coal, if any, levied against or allocable
to the Facility and shall file any required statements with respect thereto. Landlord agrees to render to Tenant all reasonable assistance in contesting the validity or amount of any such personal property taxes, including joining in the signing of any reasonable applications, requests for exemption, protests or pleading which Tenant may deem advisable to file; provided, however, that Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses, including reasonable attorney's fees incurred in connection with providing assistance within thirty (30) days of submission of proof of payment by Landlord.

6. UTILITIES.

6.1 Charges. Tenant shall pay any and all utility charges which may be levied, assessed or imposed upon or against the Leased Premises and the Facility, including, but not limited to, all charges for water, sewer, heating, electricity, air conditioning, telephone, and trash removal services.

6.2 Process Water. At Landlord’s sole cost, Landlord shall furnish to Tenant at the Facility (i) tie-ins or access to potable water; (ii) water from Landlord’s sanitary water supply, for sanitary purposes; and (c) water from Landlord’s fire protection water supply, up to a mutually agreed upon rate of gallons per minute, for purposes of fire protection and facility wash-downs. Such water shall be delivered by Landlord to Tenant through Landlord’s water pipe systems to mutually acceptable intake points for the internal water systems of the Facility, and Landlord shall provide Tenant with access or tie-ins to Landlord’s water pipe systems at such mutually acceptable intake points. Landlord represents and warrants that its water pipe systems are suitable in their present condition for Tenant’s intended purposes.

6.3 Wastewater.

(a) At Landlord’s sole cost, Landlord shall use commercially reasonable efforts to treat and dispose of sanitary wastewater produced by the Facility. Landlord represents and warrants that its facilities for the treatment and disposal of such sanitary wastewater are suitable in their present condition for Tenant’s intended purposes.

(b) Tenant shall collect all wastewater produced by the Facility from facility wash-downs and floor drains and may dispose of such wastewater by discharging the same into Landlord’s process wastewater system at a point mutually agreed to by the Parties. If Tenant so elects, Tenant may put such wastewater in closed containers and transport such containers to off-site disposal facilities.

7. USE OF LEASED PREMISES.

7.1 Use. The Leased Premises may be used and occupied by Tenant throughout the Term (until and including the last day of the Term) for the Designated Uses and for any other purpose reasonably related and legally permitted ancillary to the Designated Uses. Landlord covenants that it shall not take or suffer any act or omission or fail to remedy any event or circumstance, whether caused by Landlord or any third party, which could otherwise threaten or harm, or disrupt or impair, Tenant’s rights and interests under this Lease, including Tenant’s grant and uninterrupted use, possession and enjoyment of the Leased Premises.
7.2 Compliance with Laws. Tenant shall not use the Leased Premises for any unlawful purpose or act, nor shall it commit or permit waste to the Leased Premises, and Tenant shall comply with and obey all Legal Requirements related to the ownership and operation of the Leased Premises.

7.3 Permits. Tenant shall obtain and keep in force throughout the Term all licenses, consents and permits required from time to time by any Legal Requirement to permit the Leased Premises and the Facility to be used for the Designated Uses. Landlord agrees to cooperate fully with Tenant to obtain such permits and, in connection therewith, agrees to execute such applications or forms as may be required by any Governmental Authority having jurisdiction over the Leased Premises. Upon request by Landlord, Tenant shall furnish to Landlord true, correct and complete copies of all licenses, consents and permits relating to Tenant's use and occupancy of the Leased Premises and operations of the Facility and Improvements thereon. Within ten (10) days after the same are issued by the applicable Governmental Authorities, Tenant shall provide Landlord with true and correct copies of any additional permits that Tenant hereafter obtains applicable to the Leased Premises and any amendments to or renewals of any such existing or future permits.

7.4 Alterations. Tenant, in its sole discretion, shall have the right from time to time to make, or cause to be made, at its sole cost and expense, repairs, improvements, additions, alterations and changes, in or to, or to demolish or remove, the Facility and the Improvements, in each case to the extent it deems necessary or desirable to carry on any activity or use permitted by this Lease.

8. Quiet Enjoyment. Subject to the terms and conditions of this Lease, Landlord covenants and agrees that Tenant shall have the exclusive, peaceful and quiet use, enjoyment and possession of the Leased Premises during the Term, without interference or molestation by anyone claiming by, through or under Landlord, and that there shall be no Encumbrances on the Leased Premises other than Permitted Encumbrances. Landlord hereby represents and covenants that Tenant's use of the Leased Premises as contemplated by this Lease does not and will not, to the knowledge of the Landlord, violate or infringe upon the lights of any other parties, and the rights of any other parties to use portions of the Leased Premises do not and shall not unreasonably interfere with the rights of Tenant to use the Leased Premises as contemplated by this Lease.

9. Termination; Surrender

9.1 Termination. This Lease may be terminated prior to the Term as follows:

(a) Landlord may terminate this Lease by giving ten (10) days' prior written notice to Tenant (i) if there is filed any petition in bankruptcy or Tenant is adjudicated a bankrupt or insolvent, or there is appointed a receiver or trustee to take possession of Tenant or of all or substantially all of the assets of Tenant, or there is a general assignment by Tenant for the benefit of creditors, or any action is taken by or against Tenant under any state or federal insolvency or bankruptcy act, or any similar law now or hereafter in effect; or (ii) upon the failure of Tenant to pay any amount due to Landlord under this Lease, unless such default is cured within such
period. In the case of such a termination, the termination shall be effective on the date specified in such notice.

(b) Either Party may terminate this Lease by giving thirty (30) days’ prior written notice to the other Party upon any material default in the performance of the other Party’s obligations under this Lease (other than those described in the foregoing Section 9.1(a)), unless such default is cured within such period. Within such period, a Party shall have the right, but not the obligation, upon ten (10) days’ prior written notice to the other Party, to cure any default by the other Party hereunder and the other Party shall reimburse the Party, as applicable, for all reasonable costs and expenses incurred in prosecuting such cure, including but not limited to reasonable attorneys’ or other consultants’ fees and expenses. In the case of such a termination, the termination shall be effective on the date specified in such notice.

(c) Either Party may terminate this Lease upon the termination of the LLC Agreement with respect to Tenant and the Facility.

9.2 Effect of Termination. Any termination of this Lease pursuant to this Section 9 shall not relieve either Party from any liability for a breach of this Lease arising prior to such termination.

9.3 Surrender. Upon the expiration or termination of this Lease:

(a) Tenant shall peacefully surrender the Leased Premises to Landlord;

(b) Landlord shall have the option to purchase the Facility and/or Tenant pursuant to the LLC Agreement (“Purchase Option”), and

(c) Any personal property of the Tenant left about the Leased Premises for more than one hundred eighty (180) days following the expiration or termination of this Lease shall be deemed abandoned by Tenant and may, at the option of Landlord, be immediately removed from the Leased Premises and stored by Landlord or may otherwise be disposed of by Landlord in any way that it deems proper.

10. INSURANCE. The Parties shall maintain the insurance policies described on Exhibit B attached hereto during the Term. No other insurance is required from Tenant under this Lease.

11. CONDEMNATION.

(a) If the whole or any substantial part of the Leased Premises should be taken for any public or quasi-public use under any applicable Legal Requirement, or by right of eminent domain, such that Tenant cannot use the Leased Premises for its Designated Uses (as determined by Tenant in its reasonable discretion), then at the option of Tenant, this Lease shall terminate, and the Rent and other sums due hereunder shall be abated during the unexpired portion of this Lease, effective when the physical taking of the Leased Premises or such other property shall occur.

(b) To the extent Section 11(a) above is not applicable upon any taking for any public or quasi-public use under any Legal Requirement, or by right of eminent domain, this
Lease shall not terminate, but the Rent and other sums due hereunder during the unexpired Term shall be reduced to such extent as may be fair and equitable under all of the circumstances.

(c) In the event of any taking, Landlord and Tenant shall each be entitled to receive and retain such separate awards and portion of lump sum awards as may be allocated to their respective interests by the court in any condemnation proceedings.

12. LANDLORD'S REPRESENTATIONS AND WARRANTIES. Landlord represents and warrants (and where applicable, covenants) to Tenant as follows:

(a) Landlord is not a party to any lawsuits or similar proceedings that could have an adverse effect on this Lease or Landlord's ability to perform its obligations hereunder.

(b) Landlord has good and marketable fee simple title to the Leased Premises free and clear of all Encumbrances of any nature whatsoever except the Permitted Encumbrances, and has all necessary right, power, capacity and authority to grant the Tenant's interests and to lease and demise the Leased Premises to Tenant, and pursuant to the terms of this Lease does grant, lease and demise same unto Tenant, without the consent, approval or other action by any third party and without harming the rights or interests of any third party or violating any order, decree or other instrument or permit by which Landlord is bound. This representation and warranty shall be and remain true continuously on and from the date hereof until the earlier of termination of this Lease by Tenant or expiration of the Term in accordance herewith.

(c) To the best of Landlord's knowledge, Landlord has not received any notices from any Governmental Authority that would prevent or materially affect the transactions contemplated by this Lease.

(d) There are no parties in possession of any portion of the Leased Premises, other than Landlord and Tenant.

(e) There is no action, suit or proceeding, including condemnation, pending or, to the knowledge of Landlord, threatened against or affecting Landlord, insofar as the Leased Premises or any portion of the Leased Premises is concerned, or relating to or arising out of the ownership or use of the Leased Premises, in any court or before or by any Governmental Authority, nor does Landlord know or have reasonable grounds to know of any basis for any such proceeding.

(f) That Landlord has not engaged in any activity which has caused the Leased Premises or any portion thereof to be contaminated by any Hazardous Materials nor does Landlord have any knowledge that the Leased Premises is contaminated by Hazardous Materials.

13. TENANT COVENANTS. Tenant covenants as follows:

(a) Tenant shall make reasonable efforts not to disturb Landlord's activities on the Leased Premises (provided that Landlord's activities are not inconsistent with Tenant's rights under this Lease).
(b) Tenant shall comply with all applicable safety requirements of applicable authorities.

(c) Tenant shall comply with all Legal Requirements applicable to any Hazardous Material to be brought upon, kept, used or disposed in or about the Leased Premises by Tenant, its agents, employees, contractors or invitees, and Tenant’s use, storage, sale and disposal of such Hazardous Materials shall be strictly in accordance with all Legal Requirements relating thereto.

(d) Tenant shall not use, store, sell or dispose of any Hazardous Material on the Leased Premises which is not permitted under any Legal Requirements.

(e) If Tenant places, disposes or releases any Hazardous Materials in or onto the Leased Premises and such placement, disposal or release results in the contamination of the Leased Premises, then Tenant shall remediate such Hazardous Materials to the extent ordered to do so by a Governmental Authority having jurisdiction, and Tenant further agrees that it will indemnify, defend and hold harmless Landlord from and against any and all liability based on losses, damages, or claims of whatever nature that result from the contamination of the Leased Premises by Hazardous Materials, provided that such contamination is not due in any way to negligent or willful acts or omissions on the part of Landlord.

(f) If Landlord suffers any damage to uncultivated portions of its Leased Premises as a direct result of Tenant’s removal of the Facilities, Tenant shall re-grade, restore and reseed the Leased Premises, to the extent reasonably practicable, to its approximate condition existing immediately prior to Tenant causing such damage.

(g) Tenant shall be responsible for performing timely maintenance and repairs on the roadways located on the Leased Premises in order to keep the roadways passable for Landlord and Tenant. In the event the Landlord uses or allows any unrelated third parties to use the roadway for commercial purposes, other than limited recreational and related operations and purposes, Tenant shall be entitled to be reimbursed by Landlord or by any such third party for the cost of repairing any damage to the roadways caused by Landlord’s use or the third party’s use thereof, and should the third party fail to reimburse Tenant for such cost, Landlord agrees to reimburse Tenant for the cost of such repairs.

(h) To the extent commercially practicable, Tenant: (1) shall at all times maintain the its use of the Leased Premises and the Facilities in a neat, clean and presentable condition and conduct its operations on the Leased Premises in a workmanlike manner; (2) shall not damage or destroy the Leased Premises, except to the extent reasonably necessary for the continued operation of the Facility, (3) shall keep the Leased Premises clean and free of debris created by Tenant, its contractors or others brought onto the Leased Premises by Tenant, and (4) shall not use the Leased Premises for storage, except for materials, equipment and vehicles directly associated with the operation and maintenance of the Facility on the Leased Premises.

(i) Tenant shall use commercially reasonable standards to (1) avoid unreasonably disturbing areas of the Leased Premises that are adjacent to the Facility; and (2) minimize the impact of its operations on the Leased Premises so long as it reasonably determines
that it can achieve the same without limiting the implementation of the rights granted to it under this Lease.

14. ACCESS TO PREMISES.

14.1 Landlord Access. Landlord shall have the right to enter the Leased Premises, including the Facility for the purpose of inspecting the same, but in such manner as not to unreasonably interfere with the operation thereof. The foregoing shall not apply in the event of an emergency.

14.2 Operator Access. Operator, its agents, engineers, or other persons on its behalf, with their assistants, shall have the right at all times to enter the Leased Premises, including the Facility and all its works and parts thereof, in order to inspect, examine, survey or measure the same, in connection with any of Operator’s obligations as “Operator” under the O&M Agreement, or for any other lawful purpose whatsoever.

15. OWNERSHIP OF FACILITY AND IMPROVEMENTS

15.1 Ownership of Facility and Improvements. The Facility and Improvements are and shall be the property of Tenant, subject to Section 15.2. The Parties agree that, even if the Facility and the Improvements are physically attached or affixed to or incorporated in or made part of the Leased Premises, such Facility and Improvements shall not become fixtures or otherwise part of the real property interests constituting the Leased Premises.

15.2 Removal of Facility and Improvements; Restoration of Premises.

(a) Within six (6) months following the end of the Term, unless Landlord exercises its Purchase Option, Tenant shall or shall cause a Third Party to (i) remove the Facility (including concrete footer pads) and the Improvements (including any supplies of chemical reagents or other chemicals owned by Tenant or otherwise brought or stored on the Leased Premises during the Term at the direction of or on behalf of Tenant), (ii) restore the Leased Premises to a grade consistent with the surrounding lands; (iii) remove or treat any Hazardous Materials introduced upon the Leased Premises by or on behalf of Tenant during the Term; and (iv) surrender possession of the Leased Premises to Landlord, free of the Facility, the Improvements, and all debris of Tenant (Tenant’s obligations under this Section 15.2(a) are collectively referred to as the “Restoration Obligations”).

(b) Tenant may, by notice to Landlord, elect to abandon all of the Facility, Improvements and all and any other equipment, materials or other personal property and fixtures located on the Leased Premises. Following such notice, and upon payment by Tenant to Landlord of an amount equal to $100,000.00, title to and risk of loss of such personal property and fixtures shall pass to Landlord. Thereafter, Landlord shall assume responsibility for all of the Restoration Obligations and shall indemnify and hold Tenant harmless from all of the Restoration Obligations.

(c) For the sole purpose of this Section 15.2, Landlord grants to Tenant, on a non-exclusive basis, an easement over the Leased Premises as is reasonably necessary for Tenant to meet its Restoration Obligation hereunder.
16. RESERVED.

17. INDEMNIFICATION.

17.1 Indemnities. Each Party (the “Indemnifying Party”) agrees to defend, indemnify and hold harmless the other Party and the other Party’s officers, directors, employees, shareholders, members, managers, Affiliates, successors and assigns (collectively, “Indemnified Party”) against losses, damages, claims, expenses, and liabilities that may be suffered or incurred by them (or any of them) resulting from, arising, directly or indirectly, out of or in connection with:

(a) Any operations or activities of the Indemnifying Party on the Leased Premises;

(b) Any property damage, bodily injury or death resulting from (i) any actions or omissions of an Indemnifying Party or its agents or Affiliates, (ii) any breach of or failure to carry out, perform, satisfy and discharge any covenant or warranty by an Indemnifying Party, (iii) the inaccuracy of any representation made by an Indemnifying Party in or pursuant to this Lease or (iv) any violation of a Legal Requirement by an Indemnifying Party; and

(c) Any contamination of the Leased Premises by Hazardous Materials caused or permitted by the Indemnifying Party or its predecessors in title.

17.2 Survival of Indemnification. This indemnification shall survive after the termination of this Lease until the expiration of an applicable statute of limitations.

18. LIMITATION OF LIABILITY. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, EXEMPLARY OR INDIRECT DAMAGES, LOST REVENUES, LOST PROFITS (INCLUDING LOSS OF ANY SECTION 45 CREDIT) OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION, AT LAW OR IN EQUITY OR OTHERWISE, OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE JOINT, SOLE, CONCURRENT, COMPARATIVE OR CONTRIBUTORY FAULT OR NEGLIGENCE, FAULT IMPOSED BY LAW, STRICT LIABILITY, GROSS NEGLIGENCE, OR WILLFUL CONDUCT OF ANY PARTY, ITS OFFICERS, AGENTS AND/OR EMPLOYEES. The foregoing waiver shall not apply to either Party’s obligations expressly set forth in this Lease to indemnify or defend the other Party for personal injury, bodily injury (including death), or property damage to third parties to the extent the damages recoverable by such third parties include payment of damages which may be consequential, indirect or incidental damages. This Section 18 shall survive any termination of this Lease.

19. ARBITRATION.

19.1 Dispute Resolution. All controversies, disputes or claims arising between the Parties in connection with, or with respect to, any provision of this Lease which has not been
resolved within twenty days after either Party has notified the other in writing of such controversy, dispute or claim, shall be submitted for arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "Rules") or any successor thereof. Arbitration shall take place at an appointed time in New York, New York.

19.2 Selection of Arbitrators. Each Party shall select one (1) arbitrator (who shall not be counsel for such Party, but who shall be either an attorney or a business person familiar with the coal industry), and the two (2) so designated shall select a third arbitrator. If either Party shall fail to designate an arbitrator within seven (7) calendar days after arbitration is requested, or if the two (2) arbitrators shall fail to select a third arbitrator within 14 calendar days after arbitration is requested, then such arbitrator shall be selected by the American Arbitration Association or any successor thereto upon application of either Party. Judgment upon any award of the majority of arbitrators shall be binding and shall be entered in a court of competent jurisdiction. Subject to the provisions of this Lease, the award of the arbitrators may grant any relief that a court of general jurisdiction has authority to grant, including, without limitation, an award of damages and/or injunctive relief, and shall assess, in addition, the cost of the arbitration, including the reasonable fees of the arbitrator, reasonable attorneys' fees and costs of the prevailing Party, against the non-prevailing Party.

19.3 Temporary Injunctive Relief. Nothing herein contained shall bar the right of any of the Parties to seek and obtain preliminary or temporary injunctive relief from a court of competent jurisdiction in accordance with applicable law against threatened conduct that may cause loss or damage, pending completion of the arbitration, and the prevailing Party therein shall be entitled to an award of its reasonable attorneys’ fees and costs.

20. ASSIGNMENT

20.1 Assignment by Tenant; Subleases. Tenant shall not assign its rights or obligations under this Lease without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed.

20.2 Assignment by Landlord.

Nothing herein shall be construed to be a limitation or prohibition of any type against Landlord’s right or freedom to devise, convey, gift, assign, transfer and/or sell Landlord’s title to the Leased Premises; provided, however, that any such conveyance shall be subject to this Lease. Landlord shall notify Tenant in writing of any sale, assignment or transfer of any of Landlord’s interest in the Leased Premises, or any part thereof. Until Tenant receives such notice, Tenant shall have no duty to any successor owner of the Leased Premises, and Tenant shall not be in default under this Lease if it continues to make all payments to Landlord before Tenant receives such notice of sale, assignment or transfer. Landlord shall not sever, convey, assign, sell or otherwise transfer the Leased Premises’ refined coal rights or interests separately from the Leased Premises’ fee title. Landlord shall not convey, assign, or transfer or attempt to convey, assign or transfer this Lease or the rights to payments due to Landlord under this Lease except to a successor owner of the Leased Premises. In the event the foregoing prohibition on the transfer of refined coal rights and/or payments under this Lease is found, by a court of competent
jurisdiction, to be unenforceable, Tenant and Landlord agree that all payments due under this Lease shall be paid to the owner of the fee simple estate.

21. MISCELLANEOUS.

21.1 Amendment; Waiver. This Lease may be amended, modified or superseded only by a written instrument signed by each of the Parties to this Lease. No Party shall be deemed to have waived compliance by any other Party of any provision of this Lease unless such waiver is contained in a written instrument signed by the waiving Party, and no waiver that may be given by a Party will be applicable except in the specific instance for which it is given.

21.2 Entire Lease. This Lease embodies the entire agreement and understanding of the Parties related to the subject matter and supersedes all prior proposals, understandings, agreements, correspondence, arrangements and contemporaneous oral agreements relating to the subject matter of this Lease.

21.3 Governing Law. This Lease shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Utah, without giving effect to any conflict of law, rule or principle of such state.

21.4 Notices. All notices, requests, demands and other communications required or permitted to be given or made under this Lease shall be in writing and shall be deemed to have been delivered (a) on the date of personal delivery or transmission if sent by confirmed facsimile transmission or electronic mail transmission, (b) on the first business day following the date of delivery to a nationally recognized overnight courier service, or (c) on the third business day following the date of deposit in the United States mail postage prepaid, by registered or certified mail return receipt requested, in each case, addressed as follows, or to such other address or Person as a Party shall designate by notice to the other in accordance herewith:

If to Landlord: Bowie Refined Coal, LLC
Attn: Steve Rickmeier
6100 Dutchmans Lane, Suite 900
Louisville, Kentucky 40205
Facsimile: (502) 587-6579
Email: rickmeiers@comcast.net

With copies to: Fultz Maddox Hovious & Dickens, PLC
Attn: Brian S. Settles
101 South Fifth Street, Suite 2700
Louisville, Kentucky 40202
Facsimile: (502) 588-2020
Email: bssettles@fmhd.com
21.5 **Severability.** If any term or provision of this Lease or the application thereof to any Person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to Persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by Legal Requirements.

21.6 **Relationship of Parties.** Nothing contained herein shall be deemed or construed by the Parties hereto, nor by any third party, as creating the relationship of principal and agent, or of partnership, or of joint venture, between the Parties hereto.

21.7 **Memorandum of Lease.** The Parties hereto mutually agree, upon the written request of either one to the other, to execute a Memorandum of Lease in recordable form for filing and recording in the office of the Carbon County Recorder's Office, which memorandum of lease shall contain the provisions hereof with respect to the Parties, the description of the Leased Premises, the use thereof, and the Term, and shall incorporate the balance of this Lease by reference; and such memorandum of Lease is by this reference made a part hereof.

21.8 **Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Lease and all of which, when taken together, shall be deemed to constitute one and the same agreement. Executed versions of this Lease may be delivered by the Parties via facsimile or email, either or both of which shall constitute delivery of an original.

[Remainder of Page Intentionally Left Blank; Signatures Follow]
IN WITNESS WHEREOF, the Parties have entered into this Lease as of the date first written above.

BOWIE REFINED COAL, LLC

By: [Signature]

Name: Steve Rickmeier

Title: Manager

("Landlord")

BRC WELLINGTON, LLC

By: DB RC Investments II, LLC, its sole member

By: __________________________

Name: _________________________

Title: __________________________

("Tenant")
IN WITNESS WHEREOF, the Parties have entered into this Lease as of the date first written above.

BOWIE REFINED COAL, LLC

By: ____________________________

Name: Steve Rickmeier

Title: Manager

("Landlord")

BRC WELLINGTON, LLC

By: DB RC Investments II, LLC, its sole member

By: ____________________________

Name: John DeRosa

Title: Authorized Signatory

("Tenant")
APPENDIX 1-4

Zoning and Conditional Use Permit Information
Section 10-3  MANUFACTURING ZONE M-1.

Subsections
10-3-1  Purpose
10-3-2  Permitted Use
10-3-3  Area Regulations
10-3-4  Side Yard Regulations
10-3-5  Front Yard Regulations
10-3-6  Rear Yard Regulations
10-3-7  Height Regulations
10-3-8  Coverage Regulations
10-3-9  Parking

Section 10-3-1  PURPOSE.
To provide in Wellington for light industrial uses.

Section 10-3-2  PERMITTED USES.
1. Ice manufacturing.
2. Food products manufacturing.
3. Textile manufacturing.
4. Furniture products manufacturing
5. Jewelry manufacturing.
7. Retail sales establishment intended to service Wellington residents.
8. Restaurants and fast food establishments.
9. Professional offices.
10. Service business.
11. Warehousing.
13. Professional offices.
Section 10-3-3 AREA REGULATIONS.
Area requirements will be dependent on compliance with parking and setback regulations.

Section 10-3-4 SIDE YARD REGULATIONS.
None, except that wherever a building is located upon a lot adjacent to residential zone or agricultural boundary, there shall be provided a side yard of not less than ten (10) feet on the side of the building adjacent to the zone boundary line, and on corner lots, the side yard, which faces on a street, shall be not less than twenty (20) feet.

Section 10-3-5 FRONT YARD REGULATIONS.
The minimum depth of the front yard for all advertising signs, buildings, structures, walls, or fences more than two (2) feet in height shall be twenty (20) feet.

Section 10-3-6 REAR YARD REGULATIONS.
None, except that on corner lots which rear upon the side yard of another lot in a residential or agricultural zone, the minimum rear yard shall be ten (10) feet.

Section 10-3-7 HEIGHT REGULATIONS.
No building or structure shall be erected to a height greater than two and one-half (2 ½) stories, or thirty-five (35) feet.

Section 10-3-8 COVERAGE REGULATIONS.
No building or structure or group of buildings with their accessory buildings shall cover more than sixty (60) percent on the area of the lot.

Section 10-3-9 PARKING REGULATIONS.
For a new building or structure or the enlargement or increase in capacity or floor area of an existing main building or structure there should be at least one (1) permanently maintained parking space of not less than one hundred eighty (180) square feet for every two (2) employees at peak shift on that parcel of land.
WELLINGTON CITY CONDITIONAL USE APPLICATION

Date: 7/13/05

The following information must be provided for all conditional use permits.

Property Owner Name(s): Covel Engineered Fuels, LLC
Property Address: 10665 W. Ridge Rd
Property Zone: M-1 Lot Size: __________
Property Owner’s Mailing Address: 10653 S. River-Front Pkwy Ste 300
Property Owners Telephone #: 701-1036

Description of Proposed Conditional Use(use separate page if necessary): Wellington City ordinance states there shall be no structure over 35ft. The silo (loadout) will be 75ft. proposed conditional use is to allow silo @ 75ft. due to the fact of the zoning, which is M-1

Please attach the following:

Detailed Site plans w/Plat map drawn to scale
Signature of Neighbors (if required)

I, the undersigned, state that all information provided is true and accurate to my best knowledge.

Property Owner’s Signature: ___________________________ Date:__________________
Lessee’s Signature (If Applicable): ___________________________ Date:__________________

*******************************

Approving Signatures
Planning and Zoning

City Council

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
July 6, 2005

Mayor Karl Houskeeper
City Counsel
City of Wellington, Utah

RE: Letter of Assurance

Dear Mayor Houskeeper and Council Members:

This Letter of Assurance is provided in connection with the proposed activities of our subsidiary, Covol Engineered Fuels, L.C. ("Covol"), at 1865 W. Ridge Road, Wellington, Utah 84542.

As you know, Covol owns 30 acres at the above location and intends to construct and operate a coal-cleaning facility. More specifically, Covol will contract to have coal shipped to the facility where it will be processed and returned to the coal owners or other buyers.

The coal-cleaning process will generate residual material suitable for beneficial uses such as structural fill. Covol intends to use some of this material for its own purposes with the remaining residual material either returned to the original coal owners or sold to third parties.

Headwaters Incorporated supports Covol's desire to be a long-term resident of Wellington and a positive contributor to the local economy. As such, Headwaters hereby provides you with assurance that it will lend its financial support and cause Covol to manage the coal and residual material located at the facility in accordance with applicable laws. Further, upon termination of its operations, Headwaters will ensure that Covol will remove all coal and residual material located on the property (excluding material used for improvements).

Sincerely,

HEADWATERS INCORPORATED

Steven G. Stewart
Chief Financial Officer

Cc: Keith Thompson,
General Manager, Covol Engineered Fuels L.C.
APPENDIX 1-5

Affidavit of Publication of Administrative Completeness
April 30, 2008

Mr. Daron Haddock  
Environmental Manager - Compliance  
Utah Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84116

RE: Affidavit of Publication  
Covol Engineered Fuels, LC  
Wellington Dry Coal Cleaning Facility

Dear Mr. Haddock:

As required, Covol Engineered Fuels, LC (Covol) is submitting the original affidavit of publication for the advertisement of the Notice of Permit Application for Covol's dry coal cleaning facility located in Wellington, Utah.

If you have any questions regarding the application or need additional information, please call me at (801) 984-3770.

Sincerely,

Gina Rau  
Environmental Manager

Attachments (1)

cc: Mike Gipson – Covol Engineered Fuels, LC – Wellington, UT Facility

10653 S. River Front Parkway  
Suite 300  
South Jordan, UT 84095  
P: 801.984.9400  
F: 801.984.9410

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
AFFIDAVIT OF PUBLICATION

STATE OF UTAH

ss.

County of Carbon,

I, Richard Shaw, on oath, say that I am the Publisher of the Sun Advocate, a twice-weekly newspaper of general circulation, published at Price, State a true copy of which is hereto attached, was published in the full issue of such newspaper for 4 (Four) consecutive issues, and the first publication was on the 1st day of April, 2008, and that the last publication of such notice was in the issue of such newspaper dated the 22nd day of April, 2008.

Richard Shaw - Publisher

Subscribed and sworn to before me this 22nd day of April, 2008.

Linda Thayn

Notary Public My commission expires January 10, 2007 Residing at Price, Utah

Publication fee, $399.36

NOTICE OF PERMIT APPLICATION
COVOL ENGINEERED FUELS, LC

Notice is hereby given that COVOL Engineered Fuels, L.C., 10653 South River Front Parkway, South Jordan, Utah 84095 has submitted an application to the Utah Division of Oil, Gas and Mining (the "Division") to operate a dry-coal cleaning facility approximately 2 miles southwest of Wellington, Utah. The permit area for this facility is located in NE¼ Sec. 14, T. 15 S., R. 10 E., SLM and contains approximately 30 acres. Pursuant to the Utah Administrative Code R645-300-121.150 notice is also provided that this facility is located within 100 feet of the outside right-of-way of a public road (Ridge Road).

The Division has determined that this application is administratively complete. A copy of the permit application is available for public inspection at the following locations:

Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, UT 84114-5801

Carbon County Clerk's Office
120 East Main
Price, Utah 84501

Written comments, objections, and requests for informal conferences or public hearings on the application or location of the facility may be addressed to:

Utah Coal Program
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Closing date for submissions of comments, objections, and requests for informal conference or public hearing is 30 days from the last date of newspaper publication.

Published in the Sun Advocate April 1, 8, 15 and 22, 2008.

INCORPORATED
August 31, 2009
Div. of Oil, Gas & Mining
**AFFIDAVIT OF PUBLICATION**

STATE OF UTAH

ss.

County of Carbon,

I, Richard Shaw, on oath, say that I am the Publisher of the Sun Advocate, a twice-weekly newspaper of general circulation, published at Price, State of Utah a true copy of which is hereto attached, was published in the full issue of such newspaper for 4 (Four) consecutive issues, and on the Utah legals.com website, the first publication was on the 1st day of August, 2013, and that the last publication of such notice was in the issue of such newspaper dated the 22nd day of August 2013.

Richard Shaw – Publisher

Subscribed and sworn to before me this 22nd day of August, 2013.

Linda Thayn

Notary Public My commission expires January 10, 2015 Residing at Price, Utah

Publication fee, $ 235.20
STATE OF UTAH)  

ss.

County of Carbon,)

I, Richard Shaw, on oath, say that I am the Publisher of the Sun Advocate, a twice-weekly newspaper of general circulation, published at Price, State of Utah a true copy of which is hereto attached, was published in the full issue of such newspaper for 1 (One) consecutive issues, and on the Utahlegals.com website, the first publication was on the 22nd day of August, 2013, and that the last publication of such notice was in the issue of such newspaper dated the 22nd day of August 2013.

Richard Shaw - Publisher

Subscribed and sworn to before me this 22nd day of August, 2013.

Linda Thayn

Notary Public My commission expires January 10, 2015 Residing at Price, Utah

Publication fee, $ 58.80