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

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RE: Midterm Permit Review, Lodestar Energy, Inc./Mountain Operations, Whiskey Creek Mine, C/007/001-MT02

The following document is an evaluation of the nine permit conditions which were issued by the Utah Division of Oil, Gas and Mining with the October 26, 2001 permit. This permit issuance is significant because it allows the permittee to recover coal from the two O'Connor coal seams in the Belina Mine's surface facilities area. Hence, Lodestar has converted from underground extraction methods to surface mining methods.

SUMMARY:

The Division of Oil, Gas, and Mining initiated a midterm review of the Whiskey Creek permit on April 30, 2002. The new permit, which approved the surface removal of the upper and lower O'Connor coal seams and reclaim the mine facilities at the same time, was approved by the Division on October 26, 2001. Underground coal extraction activities in the White Oak #2 Mine ceased on September 28, 2001. According to the mine map submitted as part of the annual report for 2001, the portals in the lower mine were effectively sealed by November 16, 2001.

At the completion of the underground activities, the permittee initiated reclamation by demolishing most of the surface facilities on the upper pad including the main bathhouse / administration building, the wastewater treatment plant, and various other shops, storage facilities, etc. Administration activities were moved to the old school house in the town of Scofield, while the bathing facilities were transferred to the White Oak loadout. The lower pad, containing the truck loadout, reclaim conveyor and the raw coal stacking tube with associated conveyors was not reclaimed, because the permittee has the potential to obtain an additional Federal lease on the NE corner of the current activity and utilize these facilities.

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No reclamation activities have occurred at the rail loading facility as coal shipments are still being made via that facility.

The midterm process team evaluated the nine permit conditions inherent with the Whiskey Creek surface mine permit approved on October 26, 2001. This document will analyze each permit condition, the permittee's activities to achieve compliance with same, the Division's comments relative to adequacy of compliance, and other review topics including adequacy of ownership and control information and the amount of the reclamation bond.

TECHNICAL ANALYSIS:

COAL MINE PERMITTING—GENERAL REQUIREMENTS

Regulatory Requirements: R645-301-100. General Contents

Analysis:

As part of the midterm permit review process, the Division requires an evaluation of the legal and financial information, as it currently exists in the mining and reclamation plan. The permittee submitted a permit amendment to the Division on February 13, 2002 to update the legal and financial information for the permittee (Chapter 1). The permittee is, at present, undergoing a re-structuring at the corporate level. LF02A, as approved by the Division on March 21, 2002, includes current names and addresses for responsible officials within the Lodestar hierarchy.

At this time, the legal and financial information for the Lodestar organization does not include any information applicable to Wexford Capital LLC, as it is not known what relationship exists or will exist with that Company and Lodestar Energy, Inc.

Findings:

The permittee's current legal and financial information, as updated by the approved LF02A, is adequate to address the requirements of this section.

PERMIT CONDITIONS

As noted above, the current, approved permit for the Whiskey Creek surface mine, approved by the Utah Division of Oil, Gas and Mining on October 26, 2001 contained nine permit conditions which were included within ATTACHMENT A. Each condition will be evaluated for compliance via the analysis / findings methodology.

PERMIT CONDITION #1) Water Monitoring. (R645-301-731.200).

Analysis:

Permit condition #1 which was included as part of Attachment A required the permittee (Lodestar Energy, Inc.) to **“will submit water quality data for the White Oak Complex and Loadout, in an electronic format through the Electronic Data Input web site, <http://hlunix.hl.state.ut.us/cgi-bin/appx-ogm.cgi>.”** A stipulation of the mid-year 1999 permit renewal process required the permittee to initiate the submittal of water monitoring data via electronic format methods. The permittee initiated the fulfillment of this requirement by submitting the fourth quarter 1999 water monitoring data to the Division’s web site on or before March 31, 2000.

Findings:

The permittee is adequately addressing this permit condition. Deficiencies which have occurred or which may occur are generally addressed in as expeditious a manner as possible.

PERMIT CONDITION #2) Mining Operations and Facilities. (R645-301-553).

Analysis:

This permit condition required that **“The Permittee may take more than 60 days to do rough backfilling and grading provided that no more than 306,000 LCY of spoil may be stored in the temporary spoil pile or in any pit or other location at the mine where it is not in the approximate location for final grading. R645-301-560. The Permittee must establish the approximate location of the upper portion of Whiskey Creek during rough backfilling and grading.”**

In order to ensure compliance with this permit requirement, the permittee maintains a record of burden removal as part of the daily production reports. During the first month of stripping (December 2001), 12, 692 yards of material were moved. In January, 54,152 yards were moved. As observed during the most recent inspections, the permittee is currently

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removing burden and coal from the #3 pit area. Much of the #3 pit burden has been pushed into the #1 and #2 pit areas (of the lower O'Connor seam) in order to ramp up (construct an access road for the coal trucks) to the first pit in the upper O'Connor seam. Therefore, the permittee has not even begun to encroach upon the 306,000 LCY limit. Monthly inspections by the Division as well as the limited operational space in the confines of the canyon require the permittee to backfill as soon as possible in order to keep an adequate exposure of salable product ready for the recovery process.

The permittee has established the approximate location of the upper portion of Whiskey Creek during the rough backfilling and grading process by submitting a revised Map SRP-2 to the Division. Same has been reviewed and approved by the Division.

Findings:

The permittee is adequately addressing the requirements of Permit Condition #2 at this time.

PERMIT CONDITION #3) Operations Plan Hydrologic Information. (R645-301-742.310).

Analysis:

The permit that was granted to Lodestar on October 26, 2001 required that the permittee submit revised maps relative to R645-301-742.310. The map requiring revision included an incorrect curve number for Zone 4. The permittee submitted a revised map R645-301-742.310B prior to November 26, 2001 that indicated that the correct weighted curve number for Zone 4 is 74. The permittee has adequately addressed this requirement.

Findings:

The permittee has adequately addressed the requirements of Permit Condition #3, which required the submittal of a new hydrologic information map with a corrected weighted curve number for Zone #4.

**PERMIT CONDITION #4) Operational Use of Explosives.
(R645-301-524.330 and R645-301-524.340).**

Analysis:

As part of the significant revision to change the coal extraction process from underground to surface methods, the permittee submitted information to address the requirements of R645-301-524. This included the notification of surface owners and utilities regarding the right to

request a pre-blast survey. Questar owns and operates three natural gas pipelines in close proximity to the then proposed blasting area. Questar expressed concern that the proposed surface blasting by Lodestar might have a serious detrimental affect, not on the transmission lines themselves from ground vibration, but on the coal pillars left within the pipeline protection corridor. Questar's concern stemmed from the potential for affect to cause additional subsidence of the ground above the pillars, in which the transmission lines are supported. Thus, Questar requested through the Division that surface blasting be delayed until an evaluation of their lines could be conducted. Permit Condition #4 thus required the permittee to conduct a pre-blast survey of the Questar line. Copies of the completed survey were provided to Questar, as required, to provide an opportunity period for comment. Copies were also required to be provided to the Division within 10 days of the completion of that survey.

The permittee conducted a pre-blast survey of the Questar line on November 28, 2001. Questar responded via written correspondence to the Division in which they disagreed with the survey and a request for additional information was requested through the Division such that additional analyses could be conducted. The additional information requested included maps with a projected angle of draw of 35 degrees, the amount of coal left and extracted within the pipeline corridor with a projected angle of draw of 35 degrees, a summation of the existing subsidence monitoring plan, and a copy of the right-of-way agreement permitting the placement of the various pipelines above the mine workings. This request was made on December 13, 2001. The permittee responded with the requested information to the Division on December 17, 2001. To evaluate same, the Division conducted analysis via the permitting amendment procedure, designating this review as C/007/001-AM01B. To address concerns, the Division responded through deficiency letters requesting additional information on two occasions. The permittee responded by submitting more information on December 21, 2001 and January 7, 2002.

The permittee conducted a second visual pre-blast survey inspection of the Questar gas pipeline that is located within one-half mile of the Whiskey Creek blast site on December 19, 2001 via snowmobile. The Questar line is a buried line. The coal pillars that were left within the natural gas pipeline protection corridor in the White Oak #1 (upper) mine were sealed off long before anticipation of the surface mine. Mining in the #2 or lower mine was completed by the end of September 2001. Similarly, the pillars within the lower pipeline protection corridor were sealed off long before the pre-blast survey was conducted. A report describing the site conditions observed during the second pre-blast survey was compiled by the permittee and forwarded to the Division for additional information as part of the AM01B amendment review. On February 27, 2002, the Division granted the permittee conditional approval of the pre-blast survey amendment, which in turn also granted the permittee Division authorization to proceed with surface blasting according to their approved plan.

It should be noted that during the review process of AM01B, the Division utilized the services and expertise of Mr. C.W. "Mick" Bradley of Bradley Safety Consultants to counter all concerns/questions raised by Questar's consultant, AMEC, relative to the potential affects of

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ground vibration generated from surface blasting on the coal pillars located within the natural gas pipeline protection corridor. Mr. Bradley conducted two sessions with representatives of the permittee, the Division, and Questar and their consultant in attendance. During those sessions, Mr. Bradley elaborated on the science behind the process of how ammonium nitrate and fuel oil blasting agent work to fracture rock.

On February 28, 2002, the permittee made the first shot in overburden at the Whiskey Creek Mine site, with Mr. Bradley, and representatives from the Division, Questar and AMEC in attendance. Lodestar contracted Wolfe Mining Inc. to conduct the surface blasting operations. Five seismographs were installed at varying distances from the blast site to monitor ground vibration. Peak particle velocities were measured at all locations; all measurements were less than the maximum legal allowable limit (i.e., one inch per second), based upon Office of Surface Mining and R645 scaled distance factor equations.

All blasting information, including the approved pre-blast survey was inserted into Appendix 5-24 of the mining and reclamation plan.

Findings:

The permittee has adequately addressed the requirements of R645-301-524.330 and 340 for the operational use of explosives at the Whiskey Creek surface mine, Attachment A, Permit Condition #4.

PERMIT CONDITION #5) General Reclamation Requirements. (R645-301-541.400).

Analysis:

Permit Condition #4, as stated as part of Attachment A of the October 26, 2001 issued permit, required the permittee to submit **“details of the reclamation sequence of the Belina Haul Road and the White Oak Complex coal pad and Sediment Pond 004A to the Division by January 26, 2002”**.

The permittee responded to this permit condition by showing the required reclamation timetable on pages R-32 and R-33 of the approved plan. This information is also discussed in detail in the text of pages R-34 and R-35 of the mining and reclamation plan.

Findings:

The permittee has adequately addressed the requirements of Permit Condition #5.

PERMIT CONDITION #6) Post Mining Land Uses. (R645-301-412).

Analysis:

As stated in the October 26, 2001 permit, the permittee was required to remove, by January 26, 2002, all references to construct a 1200-foot section of road. It is the Oman's desire to construct this section of road themselves, or the lease agreement with the permittee must be modified. Condition #6 also requires that the permittee must provide comments from the landowners concerning the post-mining land use for Section 30.

Normally, meeting the requirement of this condition would not be difficult; however, the Oman family matriarch, Ms. Bessie Oman, passed away prior to the issuance of Condition #6. For reasons unknown, the permittee has not been able to correspond with the Oman family, as an official determination of who the individual is who now represents Milton Oman, Ltd.

The permittee has made an attempt to meet the requirements of Condition #6 by requesting (request dated February 22, 2002) from the Division a time extension until December 2002, to allow the Oman family time to establish a family representative or legal representation to handle matters relative to the Oman family.

Findings:

The permittee has made an adequate conscientious effort of addressing the requirements of Permit Condition #6. Additional time is justified such that the heirs of Milton Oman, Ltd. can establish a spokesperson that has the authority to make decisions relative to matters concerning Milton Oman, Ltd.

PERMIT CONDITION #7) Hydrologic Reclamation Plan. (R645-301-731.120).

Analysis:

Permit Condition #7 required the permittee to revise Figure SRP-2 to include: 1) the location of the highwall in the Relocated Stream Profile that will be moved further upstream, and 2) the graded spoils in the restored stream channel that will be removed from the Transition X-Section to more accurately reflect the actual design. These requirements were to be accomplished by November 26, 2001.

Findings:

The permittee fulfilled the requirements of Permit Condition #7 prior to the initiation of this midterm permit review process.

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**PERMIT CONDITION #8) Maps Plans and Cross-Sections of Reclamation.
(R645-301-542.300 and R645-301-521.152).**

Analysis:

Map R645-301-527 Sheet 13, Whiskey Creek Mine Site Final Reclamation Contours, as submitted prior to the October 26, 2001 permit issuance, did not show surface contours 100 linear feet outside the disturbed area boundaries. The permittee was required to correct this by submitting a revised map prior to November 26, 2001.

The permittee submitted a revised map showing the surface contour lines at a scale of 1" = 100' to within 100 feet of the final surface reclamation contours, fulfilling the requirements of Permit Condition #8 prior to the initiation of the midterm permit review process.

Findings:

The permittee has adequately addressed Permit Condition #8 within the required time frame.

PERMIT CONDITION #9) Bonding. (R645-2301-840.520).

Analysis:

Permit Condition #9 required the permit to notify the Division by November 2, 2001 of the capacity of Frontier Insurance Company to provide adequate bond coverage for the White Oak Complex. The Supreme Court of the State of New York declared Frontier Insurance Company insolvent on October 15, 2001. Negotiations conducted with Lodestar Energy, Wexford, the Federal bankruptcy court in Lexington, Kentucky, and the Utah Division of Oil, Gas and Mining through the Utah Attorney General's Office reached an acceptable agreement on February 25, 2002, which would allow the permittee to continue to operate its Utah mines while the re-organization of the Company continues.

Findings:

An acceptable agreement has been reached by the permittee and the Utah Division of Oil, Gas and Mining relative to the reclamation bond requirements of the R645 coal rules. Lodestar and Wexford are in the process of re-organizing the Company. The Division has a dedicated amount determined to be utilized for the reclamation of the Utah operations should the Lodestar operation file Chapter 13 status.

OPERATION PLAN

HYDROLOGIC INFORMATION

Regulatory Reference: 30 CFR Sec. 773.17, 774.13, 784.14, 784.16, 784.29, 817.41, 817.42, 817.43, 817.45, 817.49, 817.56, 817.57; R645-300-140, -300-141, -300-142, -300-143, -300-144, -300-145, -300-146, -300-147, -300-147, -300-148, -301-512, -301-514, -301-521, -301-531, -301-532, -301-533, -301-536, -301-542, -301-720, -301-731, -301-732, -301-733, -301-742, -301-743, -301-750, -301-761, -301-764.

Analysis:

Water quality standards and effluent limitations

During the April 30, 2002 field visit, a pair of chemical storage tanks were noted within the disturbed area of the loadout. The capacities of each were noted to be in excess of 1,000 gallons. The tanks are adjacent to the structure that loads the rail cars, and have contained coal freeze proofing chemicals. The permittee was not aware of any material safety data sheets existing within Company records. The chemical in these tanks should be evaluated to determine if it is a potential environmental issue.

The permittee is reminded of R645-301-751, which states:

Water Quality Standards and Effluent Limitations. Discharges of water from areas disturbed by coal mining and reclamation operations will be made in compliance with all Utah and federal water quality laws and regulations and with effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR Part 434.

If material were accidentally released from these tanks, it would flow along the railroad tracks to sediment pond 003A. However, sediment ponds are NOT designed for chemical spills. Some chemical would soak into the ground and create a potential for groundwater contamination. This could eventually affect Mud Creek, which is immediately adjacent to the disturbed area. As the site has no history of spills of any type of bulk fluid, no State regulations are being violated. The CFR requires a Spill Prevention, Control and Countermeasure (SPCC) plan for each mine. Although the tanks discussed here do not contain bulk petroleum products, they should probably be included within the permittee's site-specific plan. It is possible the mine is now in violation of EPA requirements as there are no berms or other containment structures around the tanks. The permittee is strongly encouraged to review EPA requirements and provide containment structures if needed.

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Diversions

The April 30, 2002 site visit indicated that the existing diversions, ditches and culverts that were inspected, are properly installed and appeared to be capable of functioning as designed.

Stream buffer zones

The stream buffer zones are properly signed. There are no activities being conducted within the buffer zones.

Sediment control measures

The alternate sediment control areas at the Mine site and loadout were evaluated for compliance. A brief discussion of each follows.

- 1) ASCA #5 is the alternate sediment control area surrounding the Madsen well pump house in the Canyon below sediment pond 004A. Controls include a silt fence and vegetation. It is functioning well.
- 2) ASCA #4 is the disturbed area associated with the culinary water tanks located NW of the old administration / bath house location. This area has been reclaimed, by removing the buried tanks and their associated fixtures. The area was then pocked and seeded using the approved final reclamation seed mix from the mining and reclamation plan.
- 3) ASCA #6 is the electrical substation located SW of coal pit #2 (Refer to Whiskey Creek surface mine operating map). At the time of the field visit, the substation remained energized, as the permittee required power to maintain adequate temperatures with the surface machinery to ensure operation. The fenced area is graveled to provide sediment control.
- 4) Although not designated numerically, the various topsoil storage areas about the site use vegetation and silt fences to retain the resource. All are functioning as designed.

Sedimentation ponds

As indicated via laboratory analysis of grab samples taken when discharging, Pond 004A is functioning as intended. No modifications to this pond were necessary to convert the site from an underground extraction process to a surface contour strip operation.

Findings:

The mine is in compliance with minimum regulatory requirements. All areas that utilize Best Technology Currently Available methods are retaining sediment within the site's disturbed area.

RECLAMATION PLAN

BONDING AND INSURANCE REQUIREMENTS

Regulatory Reference: 30 CFR Sec. 800; R645-301-800, et seq.

Analysis:

Determination of bond amount

As part of the midterm review, the Division recalculated the reclamation cost estimate based on vendor material costs instead of generalized *Means* unit costs. The Division determined the reclamation cost for the Whiskey Creek Mine to be \$4,224,000 in 2004 dollars. Because the Permittee is under protection of the bankruptcy courts, the Division will not seek a bond adjustment at this time.

Findings:

The Permittee has met the minimum requirements for giving the Division adequate information to determine the bond amount.

RECOMMENDATIONS:

The Division's review of the permit conditions included in Attachment A of the October 26, 2001 permit indicates that the permittee has addressed all of the permit conditions which are capable of being addressed up to and including the current time frame. The permittee has requested and received a time extension to allow the heirs of Milton Oman, Ltd. time to establish a spokesperson for that trust, such that legal matters, including issues relative to post mining land use of Section 30, T13S, R7E, can be finalized.

The site is in compliance relative to the implementation of "best technology currently available" practices. No sediment has been observed leaving the areas that utilize this technology.

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The restructuring of Lodestar Energy, Inc. and its association with Wexford Capital LLC is ongoing. However, a legal and financial update has been provided and approved by the Division that meets the requirements of the R645 coal rules. The permittee is aware that, should changes be made relative to ownership and control information, a new update to the Chapter 1 information will be necessary.

The current agreement between Lodestar, Wexford Capital LLC, the United States Bankruptcy Court and the Division regarding the bond situation is felt to be adequate by the Division at this time. A recalculation of the dollar amount was determined by the Division to be unnecessary at this time.

Lodestar Energy, Inc./ Mountain Operations Whiskey Creek surface operations and the rail loading facility are being operated in a manner consistent with the terms and conditions of the permit issued on October 26, 2001.