

July 6, 2007

TO: Mary Ann Wright, Associate Director, Mining

FROM: Pamela Grubaugh-Littig, Permit Supervisor

RE: White Oak Mine and Loadout – Proposed Process for Inspection Frequency Change, White Oak Mine and White Oak Loadout, C/007/0001

The Division may establish an alternate inspection frequency of the White Oak Mine and White Oak Loadout because these sites meet the definition of an “abandoned” site and the process is prescribed in R645-100-200 (e):

"Abandoned site" means, for the purpose of R645-400, a coal mining and reclamation operation for which the Division has found in writing that,

- (a) All coal mining and reclamation operations at the site have ceased;
- (b) The Division has issued at least one notice of violation or the initial program equivalent, and either:
 - (i) Is unable to serve the notice despite diligent efforts to do so; or
 - (ii) The notice was served and has progressed to a failure-to-abate cessation order or the initial program equivalent;
- (c) The Division:
 - (i) Is taking action to ensure that the permittee and operator, and owners and controllers of the permittee and operator, will be precluded from receiving future permits while violations continue at the site; and
 - (ii) Is taking action pursuant to section 40-10-20(5), 40-10-20(6), 40-10-22(1)(d), or 40-10-22(2)(a) of the Act to ensure that abatement occurs or that there will not be a recurrence of the failure-to-abate, except where after evaluating the circumstances it concludes that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and
- (d) Where the site is, or was, permitted and bonded:
 - (i) The permit has either expired or been revoked; and
 - (ii) The Division has initiated and is diligently pursuing forfeiture of, or has forfeited any available performance bond.
- (e) *In lieu of the inspection frequency established in R645-400-130, the Division shall inspect each abandoned site on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site, but in no case shall the inspection frequency be set at less than one complete inspection per calendar year.*

(1) In selecting an alternate inspection frequency authorized under part (e) of this definition, the Division shall first conduct a complete inspection of the abandoned site and provide public notice under paragraph (2) below. Following the inspection and public notice, the Division shall prepare and maintain for public review a written finding justifying the alternative inspection frequency selected. This written finding shall justify the new inspection frequency by affirmatively addressing in detail all of the following criteria:

(i) How the site meets each of the criteria under the definition of an abandoned site and thereby qualifies for a reduction in inspection frequency;

(ii) Whether, and to what extent, there exist on the site impoundments, earthen structures or other conditions that pose, or may reasonably be expected to change into, imminent dangers to the health or safety of the public or significant environmental harms to land, air or water resources;

(iii) The extent to which existing impoundments or earthen structures were constructed and certified in accordance with prudent engineering designs approved in the permit;

(iv) The degree to which erosion and sediment control is present and functioning;

(v) The extent to which the site is located near or above urbanized areas, communities, occupied dwellings, schools and other public or commercial buildings and facilities;

(vi) The extent of reclamation completed prior to abandonment and the degree of stability of unreclaimed areas, taking into consideration the physical characteristics of the land mined and the extent of settlement or revegetation that has occurred naturally with time; and

(vii) Based on a review of the complete and partial inspection report record for the site during at least the last two consecutive years, the rate at which adverse environmental or public health and safety conditions have and can be expected to progressively deteriorate.

(2) The public notice and opportunity to comment required under part (e)(1) of this definition shall be provided as follows:

(i) The Division shall place a notice in the newspaper with the broadest circulation in the locality of the abandoned site providing the public with a 30-day period in which to submit written comments.

(ii) The public notice shall contain the permittee's name, the permit number, the precise location of the land affected, the inspection frequency proposed, the general reasons for reducing the inspection frequency, the bond status of the permit, the telephone number and address of the office where written comments on the reduced inspection frequency may be submitted, and the closing date of the comment period.

This memo contains proposed information for each of the steps for this change. The Division would publish this proposed action in the Sun Advocate once with a 30-day comment period. If comments are received, the Division would address them through an informal conference. If there are no comments, the Division could proceed to make requisite findings and send these findings (with the Affidavit of Publication) to OSM. The date the findings are sent to OSM would be the effective date to change the inspection frequency.

Background Information on the Loadstar Bankruptcy (White Oak Mine and Loadout)

The Division issued the Determination to Forfeit at the White Oak Mine and White Oak Loadout on May 1, 2003. Chapter 7 was filed by Lodestar Energy, Inc. on July 15, 2003. The Division negotiated with the Bankruptcy Trustee and Frontier Insurance to stabilize this site. The amount of \$999,000 was escrowed from Frontier Insurance Company on October 3, 2003. Ledcor (the Frontier contractor) started work at the White Oak Mine on October 13, 2003. Ledcor (the contractor for Frontier) left the site for the winter on December 17, 2003. Reclamation work at the White Oak Loadout was done by the Mark Wayment group.

On August 18, 2004, Lodestar trustee Bill Bishop filed the Master Settlement among various parties (including Renco and Wexford Capital) for reclamation in a "General Settlement

Fund” outside of the Lodestar bankruptcy estate. Utah received \$1.217 million dollars as part of this Settlement Agreement.

The contract with the Frontier Insurance contractor, Ledcor, was terminated by the Division and on September 8, 2004, a withdrawal from the Escrow Fund in the total amount of \$318,128.60 was requested for transfer to the State of Utah, Division of Oil, Gas and Mining, for the sole benefit of reclamation of the Lodestar Energy, Inc.’s White Oak Mine (aka Whiskey Creek Mine).

The AMR program assumed administration of the reclamation work at these sites in late 2004. VCM contractors were awarded the contract for reclamation at the White Oak Mine. Reclamation work started on October 4, 2004 and ended on November 4, 2004 due to winter conditions. Work resumed on June 13, 2005 and was completed on November 1, 2005.

Reclamation at the White Oak Loadout included: reclamation of pond (002A) by the road to the site (middle pond), regrading slope by the highway, and shaping the corner of pond 003A (up canyon side – in the area where stacking was located). Reseeding was done on both sides of the tracks from the middle of the site and south (up canyon) while reseeded was only done on the west side of the tracks from the north end to the middle of the site.

Pond 001A (farthest north – down canyon) was not reclaimed due to ROW issues with the railroad. Reclamation work at the loadout was completed on November 4, 2005.

Weed control work was done in June and July of 2006 and three times in 2007. Weed spraying will also be undertaken in 2008 at the mine and loadout.

Interim Steps Prior to Proposing Alternate Inspection Frequency

Before a change in the inspection frequency is undertaken by the Division, staff from Title IV and Title V should inspect the site to observe the current status of the reclaimed mine and loadout. An inspection with the landowners should also be conducted.

Proposed Information for Public Notice

To change the inspection frequency, this action must be published in the Sun Advocate once with a 30-day comment period.

Proposed Public Notice Information:

The reclamation bond for the White Oak Coal Mine and Loadout was forfeited on May 1, 2003. The mine and loadout were reclaimed as of November 4, 2005. Since these sites are

considered abandoned sites, the Division of Oil, Gas, and Mining proposes in lieu of the current monthly inspection frequency, that inspections be set at a frequency of one complete inspection per calendar year. The site was last inspected on (*date to be given*), no threats to public safety or environment were noted.

The White Oak Mine and Loadout are located in Carbon County, Utah:

Township 13 South, Range 6 East, SLBM

Section 24: SE 1/4, and portions of S 2 NE 1/4, NW 1/4 NE 1/4,
and E 2 SW 1/4

Section 25: E 2, portion of W 2

Section 35: Portions of E 2 E 2, and SW 1/4 SE 1/4

Section 36: All

Township 13 South, Range 7 East, SLBM

Section 8: 2 SE 1/4, portion of SW 1/4 SE 1/4

Section 9: 2SW 1/4

Township 13 South, Range 7 East, SLBM

Section 16: W 2 W 2, NE 1/4 NW 1/4, NW 1/4 NE 1/4

Section 17: NE 1/4 excluding parts of SW 1/4 NE 1/4 and
NE 1/4 NE 1/4, N 2SE1/4

Section 19: S 2 SW 1/4, NE 1/4 SW 1/4, and portions of
W 2 E 2 , E 2 NW 1/4

Section 20: Portions of NE 1/4 NE 1/4

Section 21: Portions of NW 1/4 NW 1/4

Section 30: W 2 W 2, SE 1/4 SW 1/4, NE 1/4 NW 1/4

Section 31: W 2 NW 1/4, SW 1/4

Township 14 South, Range 6 East, SLBM

Section 1: E 2 NE 1/4, NE 1/4 SE 1/4, N1/2 SE1/4 NW1/4,
N1/2 SW1/4 NW1/4, Lots 2, 3 and 4

Township 14 South, Range 7 East, SLBM

Section 6: W 2, W 2 E 2

Section 7: NW 1/4, NW 1/4 NE 1/4

If you have any comments about the proposed reduction in frequency of inspection at this mine and loadout, please send written comments within 30 days to:

Mary Ann Wright, Associate Director, Mining
Division of Oil, Gas, and Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114

Proposed Language for Findings for Inspection Frequency Change

The White Oak Mine and Loadout are considered abandoned sites because they meet the criteria of the definition of an abandoned site, “(a) All coal mining and reclamation operations at the site have ceased” and (d)(ii) “The Division forfeited the performance bond and reclaimed the site.” The Division of Oil, Gas and Mining proposes that inspections be set at a frequency commensurate with the public health and safety and environmental considerations present, but in no case shall the inspection frequency be set at less than one complete inspection per calendar year as required by R645-301-100. This frequency is in lieu of the current monthly inspection frequency.

There are no impoundments, earthen structures, or other conditions that pose, or may reasonably be expected to change into, imminent dangers to the health or safety of the public or significant environmental harms to lands, air or water resources. Vegetation establishment is preventing erosion and the drainages have been re-established and are functioning. This site is located near the small town of Scofield, in Carbon, County, Utah,.

The reclamation bond for this mine was forfeited on May 1, 2003. The mine and loadout were reclaimed as of November 4, 2005. The public notice was published on *(date to be given)* in the Sun Advocate and no comments were received *(or note if comments were received and how resolved)*.

The site is stable. Vegetation is being reestablished on the areas disturbed and reclaimed to an aesthetic and natural condition. The site was inspected on *(date of last inspection)*. There are no outstanding environmental, public health or safety conditions that are present.

Therefore, the inspection frequency will change, effective *(date of findings document to OSM)*.

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- Section 24: SE 1/4, and portions of S 2 NE 1/4, NW 1/4 NE 1/4,
and E 2 SW 1/4
- Section 25: E 2, portion of W 2
- Section 35: Portions of E 2 E 2, and SW 1/4 SE 1/4
- Section 36: All

Township 13 South, Range 7 East, SLBM

- Section 8: E 2 SE 1/4, portion of SW 1/4 SE 1/4
- Section 9: W 2SW 1/4

Township 13 South, Range 7 East, SLBM

- Section 16: W 2 W 2, NE 1/4 NW 1/4, NW 1/4 NE 1/4
- Section 17: NE 1/4 excluding parts of SW 1/4 NE 1/4 and
NE 1/4 NE 1/4, N 2SE1/4
- Section 19: S 2 SW 1/4, NE 1/4 SW 1/4, and portions of
W 2 E 2, E 2 NW 1/4
- Section 20: Portions of NE 1/4 NE 1/4
- Section 21: Portions of NW 1/4 NW 1/4
- Section 30: W 2 W 2, SE 1/4 SW 1/4, NE 1/4 NW 1/4
- Section 31: W 2 NW 1/4, SW 1/4

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- Section 1: E 2 NE 1/4, NE 1/4 SE 1/4, N1/2 SE1/4 NW1/4,
N1/2 SW1/4 NW1/4, Lots 2, 3 and 4

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