

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

#3596
R

August 16, 2010

TO: Internal File

THRU: April Abate, En Sci II, Reclamation Geo / Hydro, Team Lead
Jim Smith, En Sci III, Reclamation Hydrologist, Permit Supervisor

GAO
8-20-2010
DS 01-Sept-2010

FROM: Peter Hess, En Sci III, Reclamation Specialist, Bonding

PHH hm SAS

RE: MIDTERM PERMIT REVIEW, Hiawatha Coal Company, Hiawatha Mine Complex, C/007/011, Task ID # 3596

SUMMARY:

In response to a deficiency aired relative to the type of bond in place to ensure the reclamation of the Hiawatha Mine Complex in Task ID # 3352, the Permittee responded on July 27, 2010.

This memo will address the adequacy of the Permittee's response dated July 27, 2010.

TECHNICAL ANALYSIS:

RECLAMATION PLAN

BONDING AND INSURANCE REQUIREMENTS

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

Analysis:

General

The deficiency aired by the division as part of the Task ID # 3352 technical memo stated the following:

General

"Information provided on page 8-1, section R645-301-820, Requirement to File a Bond, contains some incorrect information which needs to be corrected (i.e., the

amount of \$167,000 is a posted security issued by the Bank of Utah, and not a U.S. Treasury security).

As of March 31, 2009, Hiawatha coal Company had an irrevocable letter of credit issued through JP Morgan Chase Bank (\$2,273,464) and a Bank of Utah Treasury Security (\$ 167,000) payable to the Division to cover the remaining reclamation for the Hiawatha Mine Complex, (total amount = \$ 2,440,464).

The Division deficiency stated that, in accordance with the requirements of **R645-301-820.131, Performance Bond or Bonds**, *“the Permittee must update the information contained in Chapter 8, Page 8-1 which describes the current sureties ensuring the reclamation of the Hiawatha Mine Complex”*

Form of Bond

On May 5, 2010, the Permittee entered into an escrow agreement with the Division and the Bank of Utah via a U.S. Treasury Note in the amount of \$ 2,128,000.

This escrow agreement has been reviewed and cleared by the Assistant Attorney Generals Office and signed by the Division Director.

The Permittee submitted a revised Page 8-77, Chapter 8, section **R645-301-860, Forms of Bonds**, which clearly states that the form of bond currently in place is a U.S. Treasury Note held by the Division in escrow with the Bank of Utah.

This revised page adequately addresses the previously identified deficiency.

Determination of Bond Amount

The U. S. Treasury note is for an amount of \$ 2,128,000.00.

Findings:

The Permittee has adequately addressed the deficiency aired under Task ID #3352, section **R645-301-820.131, Performance Bond or Bonds**.

RECOMMENDATION:

The Division should finalize the midterm review process for the Hiawatha Mine Complex.