



GARY R. HERBERT
Governor

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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

BRIAN C. STEED
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

January 10, 2020

Elliot Finley, Resident Agent
Hiawatha Coal Company
P.O. Box 1240
Huntington, Utah 84528

Subject: Midterm Completion Response, Hiawatha Coal Company, C/007/0011, C/007/0011, Task #6044

Dear Mr. Finley:

The Division has reviewed your application. The Division has identified deficiencies that must be addressed before final approval can be granted. The deficiencies are listed as an attachment to this letter.

The deficiencies authors are identified so that your staff can communicate directly with that individual should questions arise. The plans as submitted are denied. Please resubmit the entire application by no later than February 11, 2020.

If you have any questions, please call me at (801) 538-5350.

Sincerely,

Steve Christensen
Coal Program Manager

SKC/sqs

cc: Charles Reynolds, HCC

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Technical Analysis and Findings

Utah Coal Regulatory Program

PID: C0070011
TaskID: 6044
Mine Name: HIAWATHA MINE
Title: MIDTERM COMPLETION RESPONSE

General Contents

Identification of Interest

Analysis:

The amendment does not meet the State of Utah R645-301-112 requirements for Identification of Interest.

Section R645-301-112 of the amendment clarifies, to some extent, the history of control of the Hiawatha Mine Complex. However, the current ownership relationship between the ANR, HCCI, and Castle Valley Mining entities remains unclear. Per R645-301-112.300, the name, address, and phone number of each business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entity of the applicant and operator, must be included. The percentage of ownership and location in the organizational hierarchical structure is to be included, as well as other information required under R645-301-112, for every person who owns 10 percent or more of the entity. While some of this information may be present in the current MRP, it is not presented in a clear organizational structure with stated percentages of ownership.

Deficiencies Details:

The amendment does not meet the State of Utah R645-301-112 requirements for Identification of Interest. The following deficiency must be addressed prior to final approval:

R645-301-112.300: The Permittee must provide a complete organizational structure for each business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entity, as well as the required information for every president, chief executive officer, officer, partner, member, director, and person who owns 10 percent or more of the entity.

R645-301-112.320: The Permittee must provide the percentage of ownership and location in the organizational structure for every person who owns 10 percent or more of the entity.

tmiller

Violation Information

Analysis:

The application does not meet the State of Utah R645-301-113 requirements for Violation Information.

Violation information cannot be determined until the ownership and control of the mine is clarified as part of the identification of interest requirements.

Deficiencies Details:

The application does not meet the State of Utah R645-301-113 requirements for Violation Information. The following deficiency must be addressed prior to final approval:

R645-301-113: The Permittee must clarify and update the ownership and control under section R645-301-112 in order for the Division to determine violation information.

tmiller

Right of Entry

Analysis:

The amendment does not meet the State of Utah R645-301-114 requirements for Right of Entry.

In Chapter 1 of the amendment, the Permittee provided a letter, dated November 22, 2019, signed by L. A. Miller, President of ANR confirming the lease agreement with Hiawatha Coal Company, Inc. (HCCI) has been extended through Dec. 31, 2024. This letter states that the lease "permits Hiawatha Coal Company, Inc. to use the land for coal mining and related activities, as the permittee and operator of the above-referenced permit number, subject to all other rights granted by ANR Company, Inc. granted to other third party entities." However, in Section R645-301-112, page 1-1, of the amendment, it states that HCCI is currently "without the right to remove any coal from these premises until the expiration of the ANR/CWM agreement in 2024" due to a court decision. This discrepancy must be rectified and clarified to express what rights HCCI maintains under permit C/007/011. Furthermore, due to the transactional history of the permit-associated leases, the status of coal leases SL-025431, SL-069985, U-026583-058261, and U-51923 along with any other leases associated with the Hiawatha Mine Complex must be updated in the MRP.

Deficiencies Details:

The amendment does not meet the State of Utah R645-301-114 requirements for Right of Entry. The following deficiency must be addressed prior to final approval:

R645-301-114: The Permittee must clarify what rights it maintains, principally the rights to enter and mine coal, regarding the properties and leases associated with permit 007/011. The Permittee must also update the status of coal leases SL-025431, SL-069985, U-026583-058261, U-51923, and any other leases associated with the permit.

tmiller

Legal Description

Analysis:

The application does not meet the State of Utah R645 requirements for Application Content and Format, because statements regarding disturbed area are not clear.

The MRP page 2-35 states that 173.72 acres have not yet been reclaimed. Table II-13 agrees with Division records that 95.27 acres have received Phase III bond release. Table II-13 lists the locations of the 95.27 acres. Table II-13 sums the remaining 173.72 total disturbed acres as follows:

134.69 Hiawatha + 11.69 roads + 12.63 South Fork + 14.8 Middle Fork = 173.72 ac. disturbed

A table on p. 2-37 also states disturbed and reclaimed acres for selected (but not all) reclamation areas in Hiawatha. This table states 146.09 total acres. This table has incorrect totals for the changes currently being made. i.e. the Total Remaining [disturbed] should be 57.42 acres. Please check the table totals for accuracy and make the appropriate corrections.

The MRP Section 333 reports a total of 364.09 disturbed acres, of which, 112 acres is the town, roads and railroads that will not be reclaimed (Sec. 333, p. 3-36), another 54 acres are borrow areas that may not be disturbed. Therefore 252.29 acres will be restored to the post mining land use. Of those 93.27 acres have received Phase III bond release.

252.29 disturbed acres – 93.27 acres Phase III bond release = 159.02 disturbed acres

These inconsistencies must be corrected or explained:

- The apparent conflict between Section 333 statements that 252.29 acres will be restored to the post mining land

use (less 93.27 acres Phase III bond release is 159.02 acres remaining) and the 173.92 acres remaining listed in Table II-13.

- A table on p. 2-37 also states disturbed and reclaimed acres for selected (but not all) reclamation areas in Hiawatha. This table has incorrect totals for the changes currently being made. i.e. the Total Remaining should be 57.42 acres. Please check the table totals for accuracy and make the appropriate corrections.
- The discrepancy between the "56.75 acres of non-refuse area associated with the preparation plant and other affected areas" stated on (p. 2-41) and the 80.34 total acres (68.34 acres in the Hiawatha area) of non-refuse areas listed in Table II-13. Please explain
- The Division records indicate that there are 197 disturbed acres remaining in the Hiawatha disturbed area. This amendment states there are 173.72 acres remaining disturbed acres. What is the likely source of the discrepancy between the Division's records and information presented with this amendment?

Deficiencies Details:

The application does not meet the R645-301-121.200, Application Content and Format, Clear and Concise information requirements. The following deficiency must be addressed prior to final approval:

R645-301-121.200, The following inconsistencies must be corrected or explained:

- The apparent conflict between Section 333 statements that 252.29 acres will be restored to the post mining land use (less 93.27 acres Phase III bond release is 159.02 acres remaining) and the 173.92 acres remaining listed in Table II-13.
- A table on p. 2-37 also states disturbed and reclaimed acres for selected (but not all) reclamation areas in Hiawatha. This table has incorrect totals for the changes currently being made. i.e. the Total Remaining should be 57.42 acres. Please check the table totals for accuracy and make the appropriate corrections.
- The discrepancy between the "56.75 acres of non-refuse area associated with the preparation plant and other affected areas" stated on (p. 2-41) and the 80.34 total acres (68.34 acres in the Hiawatha area) of non-refuse areas listed in Table II-13. Please explain
- The Division records indicate that there are 197 disturbed acres remaining in the Hiawatha disturbed area. This amendment states there are 173.72 acres remaining disturbed acres. What is the likely source of the discrepancy between the Division's records and information presented with this amendment?

pburton

Permit Term

Analysis:

The amendment meets the State of Utah R645-301-116 requirements for Permit Term.

Chapter 1, Section R645-301-116.100 of the amendment refers the reader to Table I-1 (previously titled Table I-2) on the following page. This table has been updated to indicate that the King 4 Mine, both A and B seam, has been mined out as of 1993. The King 5 B seam and King 6 Hiawatha seam are estimated to begin production on 1/1/2026. The King 5 B seam is estimated to potentially produce 500,000 tons/year until its estimated termination date of 7/1/2030. The King 6 Hiawatha seam is estimated to produce 1,000,000 tons/year until its estimated termination date of 1/1/2034.

tmiller

Environmental Resource Information

Vegetation Resource Information

Analysis:

The amendment meets the State of Utah R645-301-320 requirements for Vegetation Resource Information.

During the midterm inspection on Sept. 4, 2019, all six reference areas were observed. Table III-9 in Chapter 3, Section R645-301-341.250 (p. 59) of the MRP lists the reference areas, their vegetation type, and the disturbed area associated with each. None of the areas have GPS coordinates listed in the MRP.

Of the 6 reference areas, SBR3 and PJR4 were observed to be in good condition with no off-site impacts. Area RR9 was located and observed to be in good condition with no off-site impacts, however it was not marked in the field, as is recommended. Area SBR12, a sagebrush reference area, was observed but it appeared to have been encroached upon by pinyon-juniper vegetation. A letter from NRCS is contained in Appendix 3-3 of Ch. 3 of the MRP detailing

observations of some of the reference areas during a visit in 1997. Area SBR12 was listed as being in "Fair" condition at that time. Area MCR2 was observed but it had been completely destroyed by the Seeley fire that burned in the area in 2012. Area MBR1 is in the same vicinity but appears to have largely escaped impact from the fire, although its entire boundary could not be determined in the field.

In light of the time that has elapsed and the damage caused by wildfire, areas MCR2, SBR12, and MBR1 must be re-evaluated by a qualified botanist to ensure they are representative of the desired success standards for revegetation of disturbed areas. It is furthermore recommended that the Permittee add field markers for sites RR9 and MBR1 as well as GPS coordinate information into the MRP for all reference areas.

In the midterm completion response (Task #6044) in Chapter 3, Section R645-301-321.200 on page 3-1, the Permittee has committed to selecting a new MCR2 reference area as well as sampling and updating information for SBR12, MBR1, and RR9 in 2020.

triller

Operation Plan

Topsoil and Subsoil

Analysis:

The Mining and Reclamation Plan meets the requirements of the Utah R645 requirements for Soil: Operation Plan. The two remaining topsoil stockpiles (South Fork and Middle Fork piles) are described in Chap II Section 231.400, p. 2-31. Chap II, Table II-12, Topsoil and Topsoil Borrow Volumes, shows the location and volume of the two remaining topsoil storage piles at the site. There is 354 CY in the Middle Fork stockpile and 1,206 CY in the South Fork stockpile (p 2-33, e-p 39).

The Middle Fork stockpile is further described on p. 2-26 and p.2-31. The circular Middle Fork stockpile is 50 ft. in diameter and four feet high. Protection of the pile is described in MRP Section 231.400, p. 31 (e-MRP Chap II p. 37). The pile is protected by a berm/ditch.

South Fork stockpile is described on p. 2-31, where it is described as three adjacent piles. Dimensions of each are provided. However, during the mid-term inspection, the three units of the stockpile were not distinct. Exhibit II-2 shows the stockpile as anvil shaped. The pile is protected by a berm/ditch.

Stockpiles were vegetated with the interim mix found in Attachment 1 of App. III-4 (p. 2-31, e-p 37)). [Attachment 1 could not be found, but a long list of seed mixes are described in Appendix B of App. III-4.] The Chap III, Section 331, p. 3-23 (e- p. 29) describes a simple mix of intermediate wheat grass and alfalfa for topsoil stockpiles. During the mid-term inspection on 9/4/2019, the South Fork topsoil stockpile was observed to be a vegetated with climax vegetation of sagebrush. Both South Fork and the Middle Fork had been heavily grazed.

An uncertain volume of flood wash sediments are stockpiled at the angle of repose in Middle Fork (Chap II, p. 2-4). The stockpile is bermed and was seeded in the Fall of 2018 at the Division's request. The topsoil is not designated topsoil. However this may be the best available material in the permit area for vegetation growth (R645-301-233.100).

Substitute topsoil locations are outlined on Exhibits II-4A (Hiawatha Processing plant & Waste Disposal Areas), II-4B (South Fork), II-4C (Middle Fork) and II-5. The volume of substitute topsoil from each location is stated in Table II-12. Substitute topsoil characteristics are described in Appendix II-3. During the mid-term inspection, it was noted that Middle Fork substitute topsoil location B (0.6 acres) was severely eroded, and its projected volume of 1,596 CY diminished.

Soil borrow areas are shown on Ex. II-4A and described on p. 2-38, 2-40 through 2-44. One such borrow area is RA-13, the Upper Rail Yard (URY), which will be the source of 75,543 CY of borrow soil for reclamation of refuse. During the mid-term inspection it was noted that the URY is being used as a gun range. The effect of the gun range use on the substitute topsoil will be evaluated and analyzed in the Spring of 2020 (p. 2-5). This evaluation will be undertaken to ensure protection of the upper 1.5 feet of substitute topsoil in the URY as described in Chap 2, p. 2-38.

pburton

Reclamation Plan

General Requirements

Analysis:

The application does not meet the State of Utah R645 Coal Rules for General Reclamation Requirements.

The application does not satisfy the requirements of Utah Coal Rules because the permit does not adequately address the reclamation plans for a section of disturbed area within the vicinity of Middle Fork. An uncertain volume of flood wash sediments are stockpiled and bermed within Middle Fork and are currently being used by ANR Company, Inc., the surface owner in this part of the permit. Previously, the Division requested that the Permittee provide a plan for the reclamation of these sediments and in response to this, the Permittee indicated that the surface owner is utilizing these sediments for an interim use and will not authorize reclamation activities until approximately mid-2021. Acknowledging that the surface owner is presently using these sediments, the Division is not requesting that the Permittee pursue reclamation activities immediately. Rather, the Division is requesting that the Permittee provide a plan for reclamation once the surface owner has terminated their current use of these sediments as stated in R645-301-541.400.

Deficiencies Details:

The application does not meet the State of Utah R645 Coal Rules for General Reclamation Requirements. The following deficiency must be addressed prior to final approval:

R645-301-541.100 thru -541.400, R645-301-542.100 thru -542.400, and R645-301-553 thru -553.150: Permittee must provide a plan for reclamation for the flood wash sediments in the vicinity of Middle Fork. Regardless of the surface owner's current use of these sediments, the Division is requesting that the Permittee offer a plan for eventual reclamation once the interim use activities have concluded.

jeatchel

Topsoil and Subsoil

Analysis:

The Mining and Reclamation Plan does not meet the state of Utah R645 requirements for Soils: Redistribution Plan.

Table II-13 itemizes the remaining disturbed area, source and volume of substitute topsoil and topsoil replacement depths. Table II-13 (p. 2-42) does not list the 340 CY of Middle Fork stockpile for use. Table II-13 must designate a location for the redistribution of the Middle Fork topsoil stockpile.

Substitute topsoil locations are shown on Ex. II-4B & C and Ex II-5. The quality of the substitute topsoil is described in Appendix II-3.

Chapter II, Section 241 describes the following reclamation areas:

Middle Fork. Table II-13 itemizes the 14.8 acres in RA- 22 to RA-25, and states that 7,583 CY of substitute topsoil will be recovered from locations A, B & C (shown on Ex II-5) to cover the 14.8 acres with 6 inches. Together these fill areas are 4.39 acres. However, this conflicts with MRP Section 231.200 p. 2-25 (electronic-MRP p.31) which describes the use of the surface 1.5 feet from these areas to yield 10,623 CY.

South Fork. Excluding the haul road, there are 12.63 acres to be reclaimed (Ex. II-13 and p. 2-36, e-p.42). Table II-13 itemizes the source of cover material for RA 17 through RA 21 in South Fork. There are two sources of substitute topsoil in South Fork (sites A & B) which are shown on Ex. II-5. Together sites A & B equal approximately 2.62 acres. Salvage of 1.5 feet from South fork sites A & B would yield 6,712 CY to provide six inches of cover over the King VI pad area (6.38 acres) in South Fork. However, this conflicts with MRP Section 231.200 p. 2-20 (electronic-MRP p.35) which describes the use of the surface 1.5 feet from these areas to yield 6,339 CY.

Sediment ponds will be reclaimed using their embankments. Similarly, the conveyor will be reclaimed with the adjacent embankment. The water tank will be reclaimed with in situ soil. The 1,206 CY South Fork stockpile will be redistributed over the coal stockpile and truck loadout (1.94 acres in RA 17).

Hiawatha Area. The current Hiawatha disturbed area is 134.69 acres and the area reclaimed area to date is 88.67 acres (Ex. II-13 p 2-37, e. p. 43). Ex II-13 is a complete listing of Hiawatha reclamation areas RA 1 – RA-15. Exhibit

II-4A shows the locations of these areas. The table on p. 2-37 is a partial list of acreage in RA -1 through 7. The table lists 27.47 disturbed acres in RA-1; 18.36 acres in RA-7 (preparation plant area); 11.59 in RA-4 (Borrow Area A). These acreages are illustrated on Ex. II-4A.

II-13 is a complete and detailed listing of reclamation areas, reclaimed and remaining. Table II-13 final totals are 95.27 acres reclaimed (Phase III bond release) and 173.72 acres remaining disturbed.

Coal storage areas are shown on Plate V-5. During final reclamation of these areas, coal fines will be placed either in slurry pond #1 or in Slurry pond #5A (pp. 5-104 and 5-106 of Sec. 541). The proposed reclamation of Slurry Ponds 1 and 5A is described on pages 2-39 through 2-42. After grading the refuse will be ripped to a depth of 18 – 24 inches. Sampling of the graded refuse/slurry is stated on page 2-40 for acid/toxic forming materials in Slurry Pond 1 and for nutrient content in both Slurry pond 1 and Slurry pond 5A.

Sixteen inches of substitute topsoil cover will be placed over the refuse and slurry. The substitute topsoil cover may be disced or scarified. Random samples will be collected for nutrient analysis. Seed will be followed by 1 T/ac mulch either crimped into the soil or spread with a binding agent. (p. 2-40).

Cover material will come from the Lower Preparation Plant (40 inch cut), the Upper Rail Yard (approx. 5 ft cut) and surrounding Borrow Areas shown on Ex II-4A. The quality of the Borrow Area soils is described in Appendix II-4. In the course of investigating the quality of the Upper Rail Yard soils, the Division noted that Attachments A, B & C are missing from Appendix II-4, soils report. This information has been restored with this submittal.

Reclamation of RA-1 non-refuse areas (sediment ponds, borrow areas, affected area and the remaining preparation plant area) is described on p. 2-38, 2-40 through 2-44.

Slurry pond 5A is used for run-off control (pg. 5-64) and will be the last structure to be reclaimed (pg. 5-78).

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Topsoil Redistribution. The following deficiency must be addressed prior to final approval:

R645-301-242.100, Table II-13 must designate a location for the redistribution of the Middle Fork topsoil stockpile.

The application does not meet the State of Utah R645 requirements for Permit Application Format and Contents. The following deficiency must be addressed prior to final approval:

R645-301-121.200,

- Middle Fork. Table II-13 itemizes 7,583 CY of substitute topsoil will be recovered from locations A, B & C. However, this conflicts with MRP Section 231.200 p. 2-25 which describes a yield of 10,623 CY.
- South Fork. Table II-13 itemizes 6,712 CY of substitute topsoil to be recovered from areas A & B. However, this conflicts with MRP Section 231.200 p. 2-20 which describes a yield of 6,339 CY.

pburton

Bonding Determination of Amount

Analysis:

The application does not meet the State of Utah R645 requirements for Determination of Bonding Amount.

The application does not satisfy the State of Utah R645 bonding requirements due to the following:

1. A review of the submitted bonding calculations revealed several mistakes that require clarification. A review of the Earthwork Cost Calculation Tables revealed a discrepancy on pages 8-59 (PDF page 97) and 8-69 (PDF page 107). The Support costs listed on page 8-59 were reported as \$102,377, but the same itemized cost listed on page 8-69 were reported as \$124,285, a discrepancy of \$21,908. The attached Excel spreadsheets also contain similar errors in the Support costs within the Earthwork section.

2. The permit does not adequately address the reclamation plans for a section of disturbed area within the vicinity of Middle Fork. An uncertain volume of flood wash sediments are stockpiled and bermed within Middle Fork and the Division is requesting that the Permittee provide a plan for reclamation. As per R645-301-542.800, the Permittee must also include a detailed description of costs associated with the reclamation of these sediments.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Determination of Bonding Amount. The following deficiency must be addressed prior to final approval:

R645-301-121.200, R645-301-542.800, and R645-301-830: The Permittee must:

1. Address errors that are present in the Earthwork calculations of the newly submitted reclamation bond. The Support costs listed on pages 8-59 and 8-69 of the Earthwork section of the PDF submittal as well as the accompanying Excel spreadsheets contain conflicting data that require clarification. The Bond Summary on page 8-8 must also be changed to reflect the corrections once the errors have been addressed within the Earthwork section.
2. The Permittee must include a detailed description of costs associated with the reclamation of the flood wash sediments in Middle Fork

jeatchel