

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

March 13, 2006

TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor

FROM: Wayne H. Western, Team Lead

RE: Phase III Bond Release UtahAmerican Energy, Inc., Horse Canyon Mine, C/007/0013, Task ID #2409

SUMMARY:

On January 3, 2006, the Division received a request for Phase III bond release for the main facilities in Part A. The Permittee requested Phase III bond release on the following areas:

- 51.56 acres that have gone through Phase I and Phase II bond release.
- 6.5 acres associated with the borrow site.
- 16.18 acres that were given an alternative postmining land use change.
- 0.02 acres associated with a bridge abutment, left unreclaimed at the request of the County.

This memo deals with engineering and bonding issues.

TECHNICAL MEMO

TECHNICAL ANALYSIS:

RECLAMATION PLAN

GENERAL REQUIREMENTS

Regulatory Reference: PL 95-87 Sec. 515 and 516; 30 CFR Sec. 784.13, 784.14, 784.15, 784.16, 784.17, 784.18, 784.19, 784.20, 784.21, 784.22, 784.23, 784.24, 784.25, 784.26; R645-301-231, -301-233, -301-322, -301-323, -301-331, -301-333, -301-341, -301-342, -301-411, -301-412, -301-422, -301-512, -301-513, -301-521, -301-522, -301-525, -301-526, -301-527, -301-528, -301-529, -301-531, -301-533, -301-534, -301-536, -301-537, -301-542, -301-623, -301-624, -301-625, -301-626, -301-631, -301-632, -301-731, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-732, -301-733, -301-746, -301-764, -301-830.

Analysis:

The Permittee did not meet the general requirements for Phase III bond release.

I General Requirements for Bond Release

Certification: The Permittee did not meet the requirements because they did not provide an affidavit with a notarized signature by a responsible official of the permittee, certifying that the information contained in the request is true and correct to the best of the official's information and belief; and all applicable reclamation activities have been accomplished in accordance with the requirements of the Act, the Regulatory Program,

Newspaper Advertisement: The Permittee provided a copy of the newspaper advertisement for Phase III bond release. The newspaper advertisement did not contain all of the required information as outline below:

- The permit number, name of the permittee, and the permit approval date.
- A description of the precise location of the land affected.
- The number of acres to be considered for release.
- The amount and type of bond the Division currently holds. The Permittee needs to state what type of bond, surety bond, collateral bond, or letter of credit.
- The amount of bond being sought for release.
- A description of the type of reclamation work performed and the dates when the work was performed and completed. The Permittee did not include a description of the 6.5 acres area and the 0.02-acre area.
- A description of the results achieved in relation to the mining and reclamation plan (i.e. stability, restoration of drainages, vegetation establishment).

TECHNICAL MEMO

- A statement indicating written comments, objections and requests for public hearings or informal conferences may be submitted to the Division of Oil, Gas and Mining.

Notification Letters: The Permittee did not meet the requirements for providing copies of the notification letters sent to all parties who have a valid interest in the bond release

- The notification letters are all addressed to the same person. The Permittee must provide the names of those people who will receive the letters.
- The information in the letter should be similar to that in the newspaper advertisement.
 - The acreage in the letter is 51.56 acres instead of 74.26 acres.
 - The areas associated with the College, the 6.5-acre area and 0.02 acre area must be mentioned.
 - The location of the property must be mentioned and if possible, a map should be included.
- A description of the results achieved in relation to the mining and reclamation plan (i.e. stability, restoration of drainages, vegetation establishment).
- A statement indicating written comments, objections and requests for public hearings or informal conferences may be submitted to the Division of Oil, Gas and Mining.

II GENERAL TECHNICAL REQUIREMENTS

- The Permittee met the requirement by included a legal description of the permit area.
- The Permittee did not meet the requirements for including maps and cross sections of the area.
 - Drawings III-2A through III-2F 3.4-13AB, do not show the 4 subareas of bond release.
 - Either the drawings are at a scale of 1 inch equal 50 feet or 1 inch equals 60 feet.
 - The Permittee did not include cross sections of the bond release area. The Division needs cross sections to make a determination about the stability of the area and if all other requirements have been met
 - The maps must show the dates and acreages when reclamation was completed.
 - The maps must show the operation or reclamation status.

III GENERAL ALTERNATIVE POSTMINING LAND USE

Because the Permittee proposes that Phase III bond release be granted because the alternative postmining land use has been achieved some of the requirements for Phase III bond release were modified. The modified requirements include:

TECHNICAL MEMO

- The requirements that site be backfilled and graded and that topsoil be placed can be waved because the Permittee showed that the alternative postmining land use was implemented. The Division can only approve the alternative postmining land use if the site will be stable.
- The vegetation requirements were waived because the alternative postmining land use was implemented. The alternative postmining land use will minimize erosion and off site impacts therefore revegetation is not needed.

For Phase III bond release, the following information must be must be included in the bond release package or referenced in the MRP:

A detailed demonstration that the approved postmining land use is achieved. This may include, but not be limited to, lease agreements, zoning information, contracts, and letters of commitment for industrial/commercial or residential uses; information on water availability and suitability for developed water resources; vegetation productivity; livestock use; wildlife counts; and recreational use.

The Permittee did include documents in the bond release package that showed they had achieved the postmining land use. The College of Eastern Utah accepted the 16.18 acres that will be developed for educational purposes.

The Permittee did not include any documentation that the 0.02 acre site for the bridge abatement was part of the approved postmining land use.

Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

R645-301-880.130, The Permittee must include a notarized statement that certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the R645-Rules.

R645-301-880.120, The Permittee must state in the newspaper advertisement the type of bond, such as surety, letter of credit or collateral and describe the 6.5 acre area and the 0.02 acre area. The Permittee must state in the letters sent to adjoining property owners and government agencies • the correct acreage (the letters state that 51.56 acres are scheduled for bond release instead of 74.26 acres), • that bond release will occur on four subareas and what those subareas are, • the location of the property, • a description of the results achieved during reclamation

and • that the recipient can submit objections to a request for a public hearing or informal conference to the Division.

R645-301-121.100, The Permittee must include information in the bond release package that discusses the 6.5-acre area and 0.02 acre area. The Permittee must provide documentation that the 6.5-acre area was not disturbed in the past ten years or that the areas or subareas meet the requirements for Phase I and Phase II bond release. The Permittee must also provide documentation that the 0.02-acre has an alternative postmining land use.

POSTMINING LAND USES

Regulatory Reference: 30 CFR Sec. 784.15, 784.200, 785.16, 817.133; R645-301-412, -301-413, -301-414, -302-270, -302-271, -302-272, -302-273, -302-274, -302-275.

Analysis:

The Permittee did not include in the bond release package a detailed description of postmining land uses for each of the four areas. The bond release package must contain the postmining land use and a narrative of how the areas meet the postmining land use.

Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

R645-301-412.100, The Permittee must include detailed information in the bond release package about the postmining land use and how it will be achieved. The Division needs specific information on the 6.5-acre area and the 0.02-acre area. In addition, the Permittee did not include information on the road that was deeded to the County. Even though the transfer took place bond release on the road must take place.

R645-301-542.620, The Permittee must show that the bridge abutments are part of the postmining land use.

APPROXIMATE ORIGINAL CONTOUR RESTORATION

Regulatory Reference: 30 CFR Sec. 784.15, 785.16, 817.102, 817.107, 817.133; R645-301-234, -301-412, -301-413, -301-512, -301-531, -301-533, -301-553, -301-536, -301-542, -301-731, -301-732, -301-733, -301-764.

TECHNICAL MEMO

Analysis:

The Permittee met the approximate original contour requirements for the 51.56-acre area and 16.18-acre area. The Division found that the site met the approximate original contour requirements at Phase I bond release on the 51.56-acre area and when the alternative postmining land use was approved on the 16.18-acre area.

The Permittee did include maps that show the 51.56-acre area, the 16.18-acre area but did not show the 6.5-acre area or the 0.02-acre area.

Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

R645-301-553.100, The Permittee must include detailed information in the bond release package about how the 6.5-acre area and the 0.02-acre area met the AOC requirements.

BACKFILLING AND GRADING

Regulatory Reference: 30 CFR Sec. 785.15, 817.102, 817.107; R645-301-234, -301-537, -301-552, -301-553, -302-230, -302-231, -302-232, -302-233.

Analysis:

General

The Permittee did not meet the general requirements for backfilling and grading. On page 3 of the bond release package, the Permittee states:

The areas covered in this Phase III bond release application include 51.56 acres covered by the Phase I and Phase II bond release as well as 6.5 acres at the borrow area which was partially disturbed during reclamation efforts in 1990-1991 by removing some fill material for reclamation.

The Permittee needs to clarify this issue and provide supporting documentation. On March 29, 2006, Jay Marshall stated that much of the 6.5-acre area was not disturbed. The

Division will need to do a Phase I, Phase II and Phase III bond release on those areas that were disturbed and not part of the Phase I and Phase II bond release.

Previously Mined Areas

There are no previously mined areas for which the Permittee sought exemptions to the general backfilling and grading requirements.

Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

R645-301-880.310 and R645-301-880.320, The Permittee must show how they met all of the requirements for Phase I and Phase II bond release on the 6.5 acre area that was not part of the Phase I and Phase II bond release.

MINE OPENINGS

Regulatory Reference: 30 CFR Sec. 817.13, 817.14, 817.15; R645-301-513, -301-529, -301-551, -301-631, -301-748, -301-765, -301-748.

Analysis:

The Permittee did not address this issue. The Permittee must include how all mine openings were closed.

Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

R655-301-542.710 and R645-301-551, The Permittee must include a narrative that states how all underground openings including the portals were permanently seal unless they were needed for the postmining land use.

ROAD SYSTEMS AND OTHER TRANSPORTATION FACILITIES

Regulatory Reference: 30 CFR Sec. 701.5, 784.24, 817.150, 817.151; R645-100-200, -301-513, -301-521, -301-527, -301-534, -301-537, -301-732.

TECHNICAL MEMO

Analysis:

Reclamation

The Permittee did not meet this requirement. The Permittee must state what roads if any were reclaimed.

Retention

The Permittee did not meet this requirement. The Permittee must state what roads were retained and why. On Drawing II-4C, the 6.5-acre area is outlined, and within the outlined there appears to be roads.

Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

R645-301-542.600, The Permittee must include a narrative of which roads were retained, and which roads were reclaimed and how each effort met the regulatory requirements. For example, the Permittee must state how the main mine road was deeded to the County. Unless the County road was given Phase III bond release then the Permittee must include that area in the Phase III bond application.

MAPS, PLANS, AND CROSS SECTIONS OF RECLAMATION OPERATIONS

Regulatory Reference: 30 CFR Sec. 784.23; R645-301-323, -301-512, -301-521, -301-542, -301-632, -301-731.

Analysis:

Affected Area Boundary Maps

The affected area boundaries are shown on several maps in the MRP.

Bonded Area Map

The Permittee did not meet the requirements of this section. The Permittee must include in the bond release application maps that show the disturbed area boundaries and the relationship between the disturbed area boundaries and the permit area.

Reclamation Backfilling And Grading Maps

The Permittee did not meet the requirements of this section. The Permittee must include cross sections for the reclaimed area. The Division needs this information to show that all the requirements were met.

Reclamation Facilities Maps

The Permittee did not meet the requirements of this section. The Permittee must identify each facility that will be left as part of the alternative postmining land use along with any structures or facilities within the reclaimed area.

Final Surface Configuration Maps

The Permittee met the requirements of this section by providing Drawings III-2A through III-2G. The maps show the final surface configuration of the areas proposed for bond release.

Reclamation Monitoring And Sampling Location Maps

Reclamation Surface And Subsurface Manmade Features Maps

The Permittee must show the surface and subsurface manmade features that will be left after bond release.

Reclamation Treatments Maps

Certification Requirements.

Findings:

The information provided in the bond release package is not considered adequate to meet the requirements of this section. Before approval, the Permittee must provide the following in accordance with:

TECHNICAL MEMO

R645-301-542.200 The Permittee must include as built maps and cross sections for the areas that were no part of the Phase II bond release.

R645-301-542.320 The Permittee must label and show all surface and subsurface manmade features that they will leave at Phase III bond release.

BONDING AND INSURANCE REQUIREMENTS

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

Analysis:

General

On February 25, 2004, the Division approved an alternative postmining land use change 16.18 disturbed acres. The alternative postmining land use change involved a donation of 896.13 acres, including 16.18 disturbed acres to the College of Eastern Utah Foundation. The transfer took place on September 13, 2005.

In addition to the land, the Permittee also donated the following:

- Sedimentation Pond #2 (including associated drainage features.)
- Pump house.
- Office building.
- Bath house.
- Warehouse.
- Shop.
- Chain link fence.
- Building pads.
- Parking lot.
- Powder magazine.
- Cap magazine.
- Water tank.
- Portal pad.

The Permittee did meet the requirements to show that a maintenance agreement had been signed by the College of Eastern Utah. See page 3 of asset assignment agreement.

Determination of Bond Amount

At the end of the Phase III bond release process all the bond on the Phase III areas will be released.

Terms and Conditions for Liability Insurance

The Permittee will continue to have liability insurance as required for the Lila Canyon project.

Findings:

The Permittee met the requirements for the regulations covered in this section of the TA.

RECOMMENDATIONS:

The Division should deny the application until the Permittee meets all of the above mention deficiencies.