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Internal
C/007/0013
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From: Priscilla Burton
To: OGMCOAL
Date: 6/1/2009 3:46 PM
Subject: Fwd: 0070013 Internal file Re: Lila Canyon construction
Place: OGMCOAL

>>> Priscilla Burton Monday, June 01, 2009 12:23 PM >>>

Okay this is what I needed to know. Thank you. I have sent this email to file.

>>> Dana Dean Monday, June 01, 2009 10:39 AM >>>

Just a few thoughts:

1 - we took from July to January to tell Jay what was wrong with his plan. I know it was during a time of a lot of workload and fewer people, but we missed the deadline by a long shot. How can we expect Jay to be any quicker?

2 - is there anything in the deficiency list that is a "deal killer," or is it quite likely that we will approve the new plans? Would his new response require significant changes to the plan he and Pete are operating from?

3 - at this point is there any reason to believe that top soil salvage was not completed properly in any of the disturbed areas?

4 - during a field visit earlier this year, where John, Daron, Dave, Pete and I were present, Jay was told to do whatever he needed to get hydrologic controls in-place. He was also told to work as much as possible within the approved plan, and to get us his changes soon (no specific deadline). At the same time, he was encouraged to work with Pete on field changes, he was not explicitly told not to make field changes to the approved plan, or to work off the new plan, rather to work with us to avoid off site impacts.

5 - if the top soil has not been properly salvaged, or if any off site impacts or work outside of the larger disturbed area boundary have occurred, we should take action. Otherwise we are more likely to end up with a better end product by recognizing that we have been part of the problem, and by working closely with Jay to get things back on track.

-----Original Message-----

From: Jim Smith
Cc: Dean, Dana <DANADEAN@utah.gov>
To: Haddock, Daron <DARONHADDOCK@utah.gov>
To: Burton, Priscilla <PRISCILLABURTON@utah.gov>

Sent: 6/1/2009 9:50:06 AM
Subject: Re: Lila Canyon construction

I don't recall any e-mails, or anything else, authorizing Jay to follow the new, unapproved plan.

JIM

>>> Priscilla Burton 6/1/2009 9:24 AM >>>
Daron,

I am in a quandary as to what to write in my technical inspection report for topsoil salvage, because Lila is not being constructed according to approved plan.

Part B of the Horse Canyon permit was issued May 18, 2007, adding 25.3 acres in Lila Canyon to the disturbed area (2007\Outgoing\0080.pdf). Those designs call for a 25.3 acre disturbed area with large islands of undisturbed ground (see Plate 5-2). The site is not being constructed in accordance with this plate, however.

Mr. Marshall did not have a copy of the approved MRP at the site. He did not have a copy of a surface facilities map on site. He was able to pull up copies of the approved and revised Plate 5-2 on his laptop. Jay Marshall cited emails from you to construct the site following a hybrid of the approved Plate 5-2 and the proposed design. The proposed design was received in July 2008, but was never approved by the Division. It was returned with deficiencies in January 2009, Task 3017.

The revised designs are described in Appendix 5-4 and 5-7 of the denied amendment. Those designs call for increasing disturbed area from 25.3 acres to 34 acres and a reduction in the islands of undisturbed land within the disturbed area from 17.3 acres down to 8.7. The expansion accommodates a larger warehouse and stockpile pads and includes additional disturbed area for second sediment pond.

Pete Hess said that he has been using this revised, unapproved plate 5-2 during his inspections at the site. Past inspection reports indicate that he has not raised any concerns over the construction at the site. Pete said Dave Darby provided verbal approval to construct the second pond (at the site entrance). My concern is that adequate topsoil was salvaged from the increased disturbed area.

During the inspection, Jay Marshall did say that topsoil had been salvaged from the location of the second sediment pond, the enlarged warehouse storage pad and the enlarged coal stockpile pad. Jay indicated that Tom Paluso was currently working on a topsoil salvage volume report that would be included in the 2009 annual report to the Division.

Four months have passed since UEI received the deficiencies of Task 3017, however Mr. Marshall will not be able to provide the Division with his revised plans for another month. This situation appears to suggest a violation for failure to operate according to plan. I have searched the files and do not see any correspondence or an email approval for this change of design plan. Can you confirm Jay's account that he received email approval for going ahead with a hybrid of the two plans (installing a conveyance ditch, from coal stockpile to topsoil pile, shown on the approved Plate 5-2 and the second sediment pond and larger pads as shown in the unapproved Plate 5-2)? If so, please place the email in the record.

Priscilla.