



State of Utah
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL, GAS AND MINING

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May 31, 2000

TO: Internal File

THRU: Robert Davidson, Team Lead *RAD*

FROM: Susan M. White, Senior Reclamation Biologist *SMW*

RE: Midterm Review, Lodestar Energy, Inc. Horizon Mine, ACT/007/020-MT99-3

SUMMARY:

A response to the midterm review was received April 25, 2000. The response contained proposed changes to the MRP. The review below states the midterm deficiency and then the permittee's response. Information found in the response is not adequate to meet the requirements of the midterm review.

TECHNICAL ANALYSIS:

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR Sec. 783., et. al.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21; R645-301-322.

Analysis:

The permit states (page 10-4) that "A macroinvertebrate and fish study will be performed by Horizon in conjunction with UDOGM and DWR personnel in 1997 and in the year 2002. The studies will be upstream and downstream of the horizon site, covering 500 meters (5 stations) on the North Fork of Gordon Creek." The proposed response to the midterm review is to change the

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1997 date to 1999. Apparently a macroinvertebrate study was done in 1999 although the study was not provided. No fish were observed during the macroinvertebrate study.

The results of this study could not be found. The survey was not conducted in conjunction with UDOGM and DWR as stated in the permit.

DWR was consulted (May 31, 2000) and they have stated that they have adequate fish surveys of Gordon Creek and that commitment can be deleted. But macroinvertebrate studies should be done. Therefore, after consultation with DWR the following commitment needs to be made in the permit.

A spring (late May/early June) and fall (September/October) macroinvertebrate surveys will be done in the North Fork of Gordon Creek, by a qualified person, on standardized dates beginning in fall 2000. The surveys will be done every year for three years and then every other year after that. On each sampling date, samples will be taken from a site 0.5 to 1.0 mile above the confluence of Jewkes Creek and the North Fork of Gordon Creek, and a similar distance below the confluence of those streams. The Division will be notified prior to survey.

DWR states that the work and reports done by Hydrobios for Willow Creek Mine in recent years have provided a good example of what needs to be done and in a format for providing the information to DWR.

Findings:

The response to the midterm review does not meet the requirements of this section. The permittee must provide the following in accordance with:

R645-301-322, the following commitment needs to be made in the permit: A spring (late May/early June) and fall (September/October) macroinvertebrate surveys will be done in the North Fork of Gordon Creek, by a qualified person, on standardized dates beginning in fall 2000. The surveys will be done every year for three years and then every other year after that. On each sampling date, samples will be taken from a site 0.5 to 1.0 mile above the confluence of Jewkes Creek and the North Fork of Gordon Creek, and a similar distance below the confluence of those streams. The Division will be notified prior to survey.

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Protection and Enhancement Plan

The Plan (page 10-35) states that Horizon will monitor road kills and report numbers weekly to the DWR; and remove killed deer and elk from the road between the Wildcat Coal Loadout and the mine site. A phone call to DWR during this midterm review concluded that road kill numbers have not been reported and road kills have not been removed from the road. The Operator's response to this midterm review changed the reporting frequency to quarterly and added Appendix 10-1. Appendix 10-1 is supposed to report road kills for 1997 through December 1999. No data is provided in Appendix 10-1. As stated in my previous review numbers of road kills and kills removed from the road should be recorded and then summarized in **Annual Reports**.

The Operator has committed to fencing (page 9-7) an area 40 feet x 60 feet of preconstruction riparian vegetation below the sediment pond. No fence was observed during an on site inspection conducted April 20, 1999. Numerous cow pies were observed in the area, indicating that livestock had not been restricted as committed (page 10-38). The Operator did not respond to these comments.

As part of a mitigation program the Operator was to recreate a riparian vegetative community along Jewkes Creek channel below the sediment pond to the road. The channel was reconstructed during road construction activities. During the site inspection, completed revegetation work was observed however, the success of that work could not be evaluated due to the early season.

Findings:

Information found in the plan and on site relevant to this midterm review have not been found to be consistent with the requirements of this section. The Operator should be reminded of the permit commitment to report and remove road kills. Numbers of road kills and kills removed from the road should be recorded and then summarized in the Annual Reports. The Operator has committed to fencing (page 9-7) an area 40 feet x 60 feet of preconstruction riparian vegetation below the sediment pond. No fence was observed during an on site inspection conducted April 20, 1999.

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RECLAMATION PLAN

REVEGETATION

Regulatory Reference: 30 CFR Sec. 785.18, 817.111, 817.113, 817.114, 817.116; R645-301-244, -301-353, -301-354, -301-355, -301-356, -302-280, -302-281, -302-282, -302-283, -302-284.

Analysis:

General Requirements

No reclamation or permanent revegetation has been conducted on site. Plate 3-7, Reclamation Topography, show areas of contemporaneous reclamation which will not be redisturb during final reclamation and areas of contemporaneous reclamation which will be redisturb during final reclamation. This plate is not correct and must be changed. No final reclamation has taken place. Contemporaneous reclamation is final reclamation done during the mining period. The final seed mixture was not used on any of the reclamation shown on Plate 3-7.

Findings:

Information found in the proposed changes to the plan relevant to this midterm review do not meet the minimum regulatory requirements of this section. The permittee must provide the following in accordance with:

R645-301-353.100, Plate 3-7 must be change to either delete the areas titled contemporaneous reclamation or re-label those areas to interim reclamation.

RECOMMENDATIONS

The Operator should be reminded of the permit commitments stated above. Prior to approval, the requirements of R645-301-353.100 and R645-301-322 must be met.

Other problems noted in the review of the submitted midterm response are:

1. Replacement pages on the C2 form are not correct for Chapter 3.
2. The use of the term "contemporaneous reclamation" is not correct.