#4095
OK

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

June 4, 2012

TO: Internal File

THRU: Pete Hess, Lead

FROM: Joe Helfrich, Biology, Landuse, Cultural Resources

RE: Midterm Completion Response, Intermountain Power Agency, Wildcat Loadout, C/007/0033, Task ID #4095

SUMMARY:

On September 29, 2011 James A. Hewlett, Resident Agent for Intermountain Power Agency was notified of the Division's initiation of the midterm review for the Wildcat Loadout facility. On November 8, 2011 the completion of the midterm review was sent to IPA. On May 9, 2012 the Division received a response to the Division's review. The items for review included the following:

A. Review of the Plan to ensure that the requirements of all permit conditions, division orders, notice of violation (NOV), abatement plans, and permittee-initiated Plan changes approved subsequent to permit approval or renewal (whichever is the most recent) are appropriately incorporated into the Plan document.

B. Ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program which have occurred subsequent to permit approval or renewal.

C. Review applicable portions of the permit to ensure that the Plan contains commitments for application of the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flows outside of the permit area.

D. Evaluate the compliance status of the permit to ensure that all unabated enforcement actions comport with current regulations for abatement; verify the status of all finalized penalties levied subsequent to permit issuance or permit renewal, and verify that there are no demonstrated patterns of violation (POV). This will include an AVS check to ensure that Ownership and Control information is current and correct.

E. Evaluate the reclamation bond to ensure that coverage adequately addresses permit

changes approved subsequent to permit approval or renewal, and to ensure that the bond amount is appropriately escalated in current-year dollars.

F. Evaluate the permit for compliance with variances or special permit conditions.

G. Optional for active mines, mandatory for reclamation only sites: conduct a technical site visit in conjunction with the assigned compliance inspector to document the status and effectiveness for operational, reclamation, and contemporaneous reclamation practices undertaken on predetermined portions of the disturbed area to minimize, to the extent practicable, the contribution of acid or toxic materials to surface or groundwater, and to otherwise prevent water pollution.

This memo will include a review of IPA's response to the following deficiency:

SUMMARY of DEFICIENCIES:

R645-300-143, the Permittee needs to provide the Division a description of the current status of action items 2, 3, 5, 6 and 7 noted in appendix P of the MRP, Division Order DO-04. If these items have not been completed the Permittee needs to meet with the Division staff and submit a timeline for implementation of each item. (JH)

TECHNICAL ANALYSIS:

A. Review of the Plan to ensure that the requirements of all permit conditions, division orders, notice of violation (NOV), abatement plans, and permittee-initiated Plan changes approved subsequent to permit approval or renewal (whichever is the most recent) are appropriately incorporated into the Plan document.

Analysis:

The Division Order # DO-04 was incorporated into the MRP on 10/18/2011. The order included a 7-8 step action plan that was not to be implemented prior to July 10, 2010 or as recommended by a Division biologist. The Division received a letter from the prior permittee's resident agent, (Dave Shaver), dated 10/26/2010 noting that the coal fines had been cleaned up and the area had been disked, roughed, mulched and seeded. Although the clean up of the coal fines appears to have addressed items 1 and 4 of the Division Order there is no mention in the order of disking, roughening, mulching or seeding and items 2, 6 and 7 do not appear to have been addressed.

Findings:

The information in the MRP is not adequate to meet the requirements of this section of the regulations. Prior to approval the following information is required in accordance with **R645-300-143**, The permittee needs to provide the Division with a description of the current status of action items 2, 6 and 7 noted in appendix P of the MRP, Division Order DO-04 [JCH]

B. Ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program which have occurred subsequent to permit approval or renewal.

Analysis:

Although the language in the definition of intermittent stream, (1square mile area), has been deleted this would not necessitate an update to the current Wildcat MRP.

Findings:

The information in the MRP is adequate to meet the requirements of this section of the regulations.

RECOMMENDATIONS:

The Division Order noted in item A of the midterm review needs to be addressed before the midterm review can be approved.

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