

OGMCOAL - RE: Task ID# 3668 Sunnyside Phase 3 Bond Release

From: Steve Christensen
To: S Scott Carlson
Date: 11/15/2010 1:54 PM
Subject: RE: Task ID# 3668 Sunnyside Phase 3 Bond Release
CC: 'Rusty Netz'; Daron Haddock; OGMCOAL

Scott,

Your e-mail is spot on in terms of what we talked about last week. The Public Notice revisions that you provided in your e-mail will work. Additionally, the SCA Notarized Statement will satisfy the reg.'s as well.

The amount of the bond to place in the public notice is the amount that we have on file as of now. In this case, that amount would be the \$1,775,000.00 figure.

As to the timing issues that we discussed, I just got off the phone with Rusty and we worked out a plan going forward. We will return the application to be updated with the additional information and revisions that we've worked out. The 30-day public notice can begin immediately. Following the 30 day public notice period, you can then re-submit the revised application package. By doing it this way, we'll avoid the timing issues and can proceed with the bond release application review process.

Let me know if you have any questions. I'll get a letter drafted and sent out either later today or tomorrow.

Regards,
Steve

Steve Christensen
Environmental Scientist III
Utah Division of Oil, Gas and Mining
(801) 538-5350

>>> "S Scott Carlson" <scarlson@twinpeakseng.com> 11/12/2010 3:11 PM >>>

Steve,

Thanks for your quick look at the docs and for discussing your concerns with me. I have prepared this summary to keep us straight on the tasks discussed in our phone call on Wednesday afternoon.

Public Notice 880.120

- Type of Bond – SCA has posted a cash bond. We have revised the Public notice doc to reflect this.
- Amount of Bond – SCA currently has a bond in the amount of \$1,775,000. The mid-term review submittal included an update to the current 2010 rates and 5 years escalation at 0.5%. The new bond calculation is for \$1,601,000. Steve C is checking to see if the public notice doc should reflect the 1.775 or 1.601.
- Description of Results – We have revised the public notice doc to provide additional description related to the PMLU. (see attached)

Notarized Statement 880.130

- While the required statement was included in the cover letter and the C1/C2 document was notarized, Division has requested a separate page document with the statement and notary. We have prepared a draft of that document for your concurrence. (see attached).

Timing

- Public notice – 880.120 is specific that the advertisement is published “at least once a week for four successive weeks”.
- Inspection – 880.210 the Division is to conduct an inspection “within 30 days, or as soon thereafter as weather conditions permit”. Given the season, the Division is concerned about the ability to confirm adequate vegetation success at this time.
- Decision – 880.220 the Division is concerned with the requirement to notify in writing “its decision to release or not to release all or part of the performance bond” “within 60 days from the filing of the bond release application”.

SCA is sensitive to the timing requirements and desires that the bond release process move forward with reasonable diligence. If there are seasonal challenges that do not allow for approval of a given portion of the bond release review, SCA would like all other portions of the review to be completed and any remaining items to be specified and proceed as soon as weather conditions permit. SCA is confident that the reclamation is successful and, given an opportunity to observe the vegetation during the growing period, would expect the Division to find that the vegetation success is as documented in the studies submitted with the application. Please let us know if it will be possible for the Division to adequately complete its review by using the vegetation reports and a current site inspection or if it will be necessary to wait on this portion of the review.

S Scott Carlson, PE, PLS

Twin Peaks PC

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(801) 450-3511

From: Steve Christensen [mailto:stevechristensen@utah.gov]

Sent: Tuesday, November 09, 2010 4:41 PM

To: S Scott Carlson

Cc: 'Rusty Netz'; Daron Haddock; OGMCOAL@utah.gov

Subject: Task ID# 3668 Sunnyside Phase 3 Bond Release

Scott,

I apologize for not getting back to you sooner. My day was hijacked by unexpected meetings/conference calls.

At any rate, I did look over the public notice and I have a couple of comments. R645-301-880.120 is the regulation that lists all of the information that needs to go into the public notice. After reviewing the public notice in the application, there are a couple items that need to be included.

The type of bond needs to be in the public notice (i.e. surety, cash, collateral etc.). In addition, the exact amount of bond filed with the Division should be included. The last item that should be expanded on in the public notice is the "*description of the results achieved as they relate to the operator's approved reclamation plan*". Admittedly, I scratched my head on this one a bit, but after some clarification from management, what's needed is a brief discussion as to whether the reclamation work performed (i.e. the "*grading, soil cover placement and revegetation*") has achieved the approved post-mining land-use identified in the MRP. I don't know what the approved post-mining land-use is for that area off the top of my head, but a brief discussion along those lines should be included per R645-301-880.120.

Off the subject of the public notice, the application itself did not have a notarized statement which certifies that all applicable reclamation activities have been done according to the reg.'s and the plan (See R645-301-880.130).

As a result, the application is not complete as submitted. I've placed a call to Rusty Netz to discuss the timing issues associated with the bond release process. Essentially the issue is that the public comment period takes 60 days to complete (30 days of publishing the notice in the Sun Advocate and then 30 days after that for public comment). The rub is that regulation R645-301-880.220 says that the Division will make an up or down decision on releasing bond money within 60 days of receipt of the application. That said, the public notice needs to be done prior to submitting the bond release application to the Division in order to avoid timing issues.

I'll be discussing this with Rusty in coming days and we'll figure something out. However, at this point, you could make the revisions to the public notice and e-mail them to me. We can work that out via e-mail and get that squared away.

Give me a call if you have any questions.

Thanks,
Steve

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