

Jessie
1/22/08 *JK*

From: "Henry Austin" <HAustin@osmre.gov>
To: "Jennifer Smith" <jsmith@osmre.gov>, "Sean Spillane" <sspillane@osmre.g...>
Date: 1/22/2008 11:40 AM
Subject: Utah coal processing operations
Attachments: headwatersjan2008.pdf

CC: "Henry Austin" <HAustin@osmre.gov>, "James Fulton" <JFulton@osmre.gov>, ...

Hey Jennifer:

I spent last week in UT accompanied by Christine Belka also from the Denver Field Division.

HEADWEATERS submitted a SMCRA permit application to UT / DOGM on January 15, 2008. We conducted an inspection there. See the O & C information from their permit application attached.

We met with Mike Gipson, HEADWATERS Plant Manager, 435 820 0320. Commonwealth Coal Sales is a coal brokerage firm apparently. It appears at least some of the coal from PacifiCorp and UtahAmerican processed at HEADWATERS went back to those same coal suppliers as clean coal.

HEADWEATERS has processed coal waste from Savage, and run of mine coal from both PacifiCorp (Deer Creek Mine) and the West Ridge Mine (formerly ANDALEX Resources, now UtahAmerican Energy, Inc. which is owned by Robert Murray).

At this time it appears they are processing run of mine coal from the West Ridge Mine. The West Ridge run of mine coal is high in ash, and HEADWATERS "cleans" the coal to remove ash using a dry-pneumatic, air separation process (basically separating the rock from the coal) after the coal is initially crushed and screened to size.

HEADWATERS develops a "waste product-coal refuse" from cleaning both run of mine coal, and the coal refuse from Savage, and reportedly transports the coal refuse they produce to the Sunnyside CO-GEN facility. They do not have, nor are they planning for an on-site coal refuse storage pile. This means any "coal waste" that HEADWATERS produces must be transported offsite somewhere.

Mr. Gipson made it sound like their continued operations will depend on securing a "long term" coal waste disposal contract with someone.

Wethought you would be interested in these coal processing practices at HEADWATERS.

We also inspected the DTE Energy facility (the original COVAL synfuel plant) in the same area south of Price, UT. They ceased operations and have entered into a settlement agreement ith DOGM that required a \$104,000.00 bond to be posted, and various basic reclamation requirements.

I say "basic reclamation requirements" as the landowner of this property indicated to us that they intend to lease this facility to another "coal processing facility". The Internal Revenue Service Tax Credit (IRC Section 29) for producing a solid synthetic fuel expired December 31, 2007, that's whyDTE ceased operating because the IRS tax credit amounted to a significant part of their profit margin, significant enough that they cannot operate without it. They reportedly closed several "synfuel" facilities nationwide.

Absent some tax credit or other vehicle identifying that a synfuel is being produced, we anticipate that DOGM will require a SMCRA permit for another type of coal processing facility.

The Mine Safety and Health Administration in Price, UT, inspects both of the coal processing facilities as coal mining operations (coal processing facilities).

Allen Miller completed a reclamation fee compliance audit of the COVAL facility (DTE) dated May 21,

1999, Report Number 990209003.

Let us know if you want more information.....Best Wishes.....Henry.

Henry Austin / USDI-OSM

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1.1.2.2 Applicant and Operator

APPLICANT: COVOL Engineered Fuels, LC
10653 South River Front Parkway, Suite 300
South Jordan, Utah 84095
(801) 984-3777

OPERATOR: COVOL Engineered Fuels, LC
1865 West Ridge Road
Wellington, Utah 84654
(435) 613-1631

1.1.2.3 Officers and Directors

The directors and officers of Headwaters, Incorporated (FEIN 87-0547337) are:

Board of Directors (all own <5%):

<u>Name</u>	<u>Date position was assumed</u>
Kirk A. Benson	01/01/1999
James A. Hickeroff	08/01/1997
R. Sam Christensen	01/01/2003
William S. Dickenson	01/01/2003
E.J. Jake Garn	01/01/2002
Malyn K. Malquist	01/01/2003
Raymond J. Weller	07/01/1991
Blake O. Fisher, Jr.	11/01/2004

Officers (all own <5%):

<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
Kirk A. Benson	Chairman of the Board and Chief Executive Officer	01/01/1999
Steven G. Stewart	Chief Financial Officer and Treasurer	09/04/2007
Harlan M. Hatfield	Vice President and Secretary	07/01/1998

The director and officers of Headwaters Energy Services Corporation (FEIN 80-0380929) are:

Director (owns <5%): Steven G. Stewart (Position assumed 09/04/2007)

Officers (all own <5%):

<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
Steven G. Stewart	Chief Financial Officer and Chairman of the Board	09/04/2007
Kenneth R. Frailey	President	08/18/2004
Harlan M. Hatfield	Vice President and Assistant Secretary	04/09/2003
Curtis J. Brown	Secretary	08/18/2004
Jason T. Day	Assistant Secretary	05/12/2004

The officers (all own <5%) of COVOL (FEIN 90-0221443) are:

<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
Kenneth R. Frailey	President and Manager	08/24/2004
Steven G. Stewart	Corporate Financial Officer	09/04/2007
Evan J. O'Neil	Vice President	06/01/2006
Keith Thompson	Vice President	08/09/2004
Harlan M. Hatfield	Manager	06/01/2006
Curtis J. Brown	Officer	08/09/2004
Jason T. Day	Officer	08/09/2004

The addresses and phone numbers for the officers and directors of Headwaters, Incorporated, Headwaters Energy Services Corporation, and COVOL are the same as the applicant.

Written correspondence to Headwaters, Incorporated or COVOL regarding the operations should be addressed to:

Gina Rau
Environmental Manager
Headwaters, Incorporated
10653 South River Front Parkway, Suite 300
South Jordan, Utah 84095
(801) 984-3770

1.1.2.4 Coal Mining and Reclamation Operation Permit Applications

The following list represents all permits issued to COVOL, along with applicable identification numbers of applications or permits:

<u>Permit</u>	<u>Issuing Authority</u>	<u>Status</u>
UPDES Permit (No. UTR000685)	Utah Dept. Environmental Quality, Division of Water Quality	Approved
Approval Order (DAQE# AN2952001-03)	Utah Dept. Environmental Quality, Division of Air Quality	Approved
Certificate of Insurance and Business Authorization	Utah Industrial Development Commission	Approved

The COVOL operations permit number is to be determined by the Utah Division of Oil, Gas, and Mining ("DOGMA"), which is the issuing authority for the facility.

The following permits and operations are held by the indicated subsidiary companies of Headwaters Energy Services Corporation:

COVOL Fuels No.2, LLC (Kentucky)

<u>Permit</u>	<u>Issuing Authority</u>	<u>Status</u>
Air Permit	Kentucky Division of Air Quality	Issued
KPDES Permit	Kentucky Division of Water	Pending
Mine Permit No. 889-8004	Kentucky Division of Mine Permit	Operator Revision – Pending

COVOL Fuels No.3, LLC (Kentucky)

<u>Permit</u>	<u>Issuing Authority</u>	<u>Status</u>
Mine Permit No.	Kentucky Division of Mine Permit	Operator Revision – Pending

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