

C/007/045 Incoming

#3805
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Mr. James D. Smith
Permit Supervisor
Utah Division of Oil, Gas, and Mining
Coal Regulatory Program
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84114

RECEIVED April 4, 2011
APR 04 2011
DIV. OF OIL, GAS & MINING

**RE: Completion of Midterm Review
Covol Engineered Fuels, LC
Permit C/007/0045, Task ID #3719**

Dear Mr. Smith:

Covol Engineered Fuels, LC (Covol) received a letter from the Division of Oil, Gas, and Mining, dated February 28, 2011, which listed four deficiencies as a result of the midterm review that DOGM conducted on Covol's Permit C/007/0045. The letter requested that Covol respond to the deficiencies and submit the responses as an amendment to Covol's MRP. Below is a list of the deficiencies and Covol's response to those deficiencies.

R645-301-231.400, Please provide as-built volumes of the two topsoil stockpiles shown in Plate 5-1 and update MRP Section 2.3.1.4 accordingly. (PB)

Section 2.3.1.4 has been updated to include the as-built volumes of the two topsoil stockpiles.

R645-300-143 and R645-301-112.410, Page 1-5 of the MRP needs to be updated to reflect the current permit number assigned by the Division, C/007/0045. Page 3-5 and Appendix A Figure 3 in Chapter 3 need to be updated to include the results of the Burrowing Owl Survey that was conducted in the Spring of 2010 as well as any additional information included in the study completed by Mt. Nebo Scientific. Additional studies or reports are often times submitted as an additional appendix so as to avoid pagination problems. (JH)

Page 1-5 has been updated to reflect the current permit number. The Burrowing Owl Survey is included as an appendix to Chapter 3.

R645-301-830.140, The Permittee must submit an updated reclamation cost estimate using 2011 units costs obtained from R.S. Means with other supporting information, as needed. (PH)

An updated reclamation cost estimate is enclosed.

R645-301-112.330, Update all officer and director information for inclusion into the MRP. (AN)

The officer and director information in Chapter 1 has been updated along with other administrative changes to Chapter 1. Due to the number of officer and director deficiencies listed in DOGM's letter, Covol is only listing the responses to those deficiencies below instead of listing the deficiency plus the response.

Headwaters Incorporated

1. Steven G. Stewart is no longer the Chief Financial Officer and Treasurer for Headwaters Incorporated. Donald P. Newman is the Chief Financial Officer and Scott L. Jackson is the Treasurer. Their begin dates are included in the revised Chapter 1. Headwaters is in the process of updating the AVS with these changes.

Headwaters Energy Services Corporation

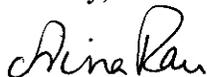
1. The begin date of 05/12/2004 for Harlan M. Hatfield, Vice President is correct. The begin date has been corrected in the revised Chapter 1.
2. The AVS is correct; Harlan M. Hatfield ended his position as Assistant Secretary on 01/03/2006. Chapter 1 has been corrected to show this.
3. The AVS is correct; Scott Ballard ended his position as Treasurer on 04/01/2010. Scott Ballard became the Vice President of Finance on that date. The begin date for this position is included in the revised Chapter 1. Headwaters is in the process of updating the AVS with these changes.
4. Chapter 1 has been updated to show Scott Jackson as the Treasurer.
5. The AVS is correct; Jason T. Day ended his position as Assistant Secretary on 04/01/2010. Chapter 1 has been corrected to show this.
6. The AVS is correct; Mike Mildenhall is the Assistant Secretary with a begin date of 04/01/2010. Chapter 1 has been corrected to show this.

Covol

1. The AVS is correct; the begin date of 06/01/2006 for Harlan M. Hatfield, Manager is correct. The begin date has been corrected in the revised Chapter 1.
2. The AVS is correct; Scott Ballard ended his position as Treasurer on 04/01/2010. Scott Ballard became the Vice President of Finance on that date. The begin date for this position is included in the revised Chapter 1. Headwaters is in the process of updating the AVS with these changes.
3. Chapter 1 has been updated to show Scott Jackson as the Treasurer.
4. The AVS is correct; Curtis J. Brown is a Secretary. Chapter 1 has been corrected to show this.
5. The AVS is correct; Jason T. Day ended his position as Assistant Secretary on 04/01/2010. Chapter 1 has been corrected to show this.
6. The AVS is correct; Mike Mildenhall is the Assistant Secretary with a begin date of 04/01/2010. Chapter 1 has been corrected to show this.

Enclosed are four copies of the application. If you have any questions regarding the enclosed application, please call me at (801) 984-3770.

Sincerely,



Gina Rau
Director, Regulatory Compliance

APPLICATION FOR COAL PERMIT PROCESSING

Permit Change New Permit Renewal Exploration Bond Release Transfer

Permittee: COVOL Engineered Fuels, LC

Mine: Wellington Dry Coal Cleaning Facility

Permit Number: C/007/0045

Title: Initial Response to Mid-Term Review Comments - Task ID #3719

Description, Include reason for application and timing required to implement:

Initial submittal of responses to the mid-term review comments - Task ID #3719.

Instructions: If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

- Yes No 1. Change in the size of the Permit Area? Acres: _____ Disturbed Area: _____ increase decrease.
- Yes No 2. Is the application submitted as a result of a Division Order? DO# _____
- Yes No 3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area?
- Yes No 4. Does the application include operations in hydrologic basins other than as currently approved?
- Yes No 5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond?
- Yes No 6. Does the application require or include public notice publication?
- Yes No 7. Does the application require or include ownership, control, right-of-entry, or compliance information?
- Yes No 8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling?
- Yes No 9. Is the application submitted as a result of a Violation? NOV # _____
- Yes No 10. Is the application submitted as a result of other laws or regulations or policies?
Explain: _____
- Yes No 11. Does the application affect the surface landowner or change the post mining land use?
- Yes No 12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2)
- Yes No 13. Does the application require or include collection and reporting of any baseline information?
- Yes No 14. Could the application have any effect on wildlife or vegetation outside the current disturbed area?
- Yes No 15. Does the application require or include soil removal, storage or placement?
- Yes No 16. Does the application require or include vegetation monitoring, removal or revegetation activities?
- Yes No 17. Does the application require or include construction, modification, or removal of surface facilities?
- Yes No 18. Does the application require or include water monitoring, sediment or drainage control measures?
- Yes No 19. Does the application require or include certified designs, maps or calculation?
- Yes No 20. Does the application require or include subsidence control or monitoring?
- Yes No 21. Have reclamation costs for bonding been provided?
- Yes No 22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream?
- Yes No 23. Does the application affect permits issued by other agencies or permits issued to other entities?

Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you. (These numbers include a copy for the Price Field Office)

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

John R Shaal
Print Name

John R Shaal, VP coal operations, 4-1-11
Sign Name, Position, Date

Subscribed and sworn to before me this 1 day of April, 2011

Susan Eyre
Notary Public



My commission Expires: Oct. 08, 2014;
Attest: State of Utah } ss:
County of Salt Lake

For Office Use Only:	Assigned Tracking Number:	Received by Oil, Gas & Mining <div style="text-align: center; font-size: 1.2em; font-weight: bold; color: red;">RECEIVED</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold; color: red;">APR 04 2011</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold; color: red;">DIV. OF OIL, GAS & MINING</div>
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CHAPTER 1 LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

1.10 Minimum Requirements

1.1.1 Introduction

This chapter of the COVOL Dry-Coal Cleaning Facility permit application provides information regarding the ownership and control of the permit area. The compliance status of the operator at other locations is also provided herein. The facility covered by this permit application has been in operation since January 2006.

The COVOL Dry-Coal Cleaning Facility (MSHA ID 42-02398 issued 2/10/2005) is used for coal cleaning and is not a coal mine. As a result, some sections of Utah's coal mine permitting rules do not strictly apply to this site. Given that fact, the applicant and the Utah Division of Oil, Gas and Mining held discussions over a period of several months prior to the submittal of this permit application in order to establish the submittal requirements. Correspondence associated with these discussions is provided in Appendix 1-1.

An environmental compliance assessment was conducted of the COVOL operations in 2006. A copy of the opinion report resulting from that assessment is provided in Appendix 1-2. That report includes copies of environmental permits, plans, policies, and procedures that were in place at the time of the assessment.

This document has been arranged in the format of the R645-301 regulations. For example, Section 1.10 corresponds to R645-301-110, Section 1.1.1 corresponds to R645-301-111, Section 1.1.2.2 corresponds to R645-301-112.200, etc.

1.1.2 Identification of Interests

COVOL Engineered Fuels, LC (hereafter referred to as "COVOL") is a subsidiary of Headwaters Energy Services Corporation, 10653 South River Front Parkway, Suite 300, South Jordan, Utah. Headwaters Energy Services Corporation is a subsidiary of Headwaters Incorporated. The relationship between these three companies is shown in Figure 1-1. COVOL is the owner/operator of the dry coal cleaning facility located in Carbon County, Utah. The facility is located within Section 14, Township 15 South, Range 10 East, SLBM, approximately 2 miles west of Wellington, Utah. ~~The following~~No entity owns 10% or more of the stock of Headwaters Incorporated, ~~but does not control Headwaters Incorporated or its subsidiaries:~~

~~Earnest Partners
1180 Peachtree Street
Suite 2300
Atlanta, GA 30309
Phone: 800-322-0068
Chief Executive Officer and Manager: Paul Viera (with Earnest Partners since 03/15/1999)
Chief Operating Officer: John Whitmore (with Earnest Partners since 06/16/2005)
Chief Compliance Officer: James Wilson, Jr. (with Earnest Partners since 09/01/2002)~~

1.1.2.1 Business Entity

COVOL is a limited liability company. Headwaters Energy Services Corporation and Headwaters Incorporated are corporations.

1.1.2.2 Applicant and Operator

APPLICANT: COVOL Engineered Fuels, LC
10653 South River Front Parkway, Suite 300
South Jordan, Utah 84095
(801) 984-9400

Payment of abandoned mine land reclamation fees, if any, will be the responsibility of the President and Manager of COVOL Engineered Fuels. Inquiries regarding the payment of this fee should be directed to this individual at the mailing address and phone number indicated above. The person currently occupying this position is indicated in Section 1.1.2.3.

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	09/06/2000
James A. Hickeroff	09/06/2000
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	09/06/2000
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	09/06/2000
Steven G. Stewart 09/04/2007	Donald P. Newman 12/8/2010	Chief Financial Officer and Treasurer
Harlan M. Hatfield	Vice President and Secretary	09/06/2000
Scott L. Jackson	Treasurer	03/01/2010

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

Director (owns <5%): ~~Steven G. Stewart~~ Donald P. Newman (Position assumed 09/04/2007~~10/2011~~)

Officers (all own <5%):

<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
Steven G. Stewart <u>Donald P. Newman</u>	Chief Financial Officer and Chairman of the Board	<u>09/04/2007</u> 10/2011
William H. Gehrmann	President	04/15/2009
Stephanie Black	Vice President	04/15/2009
Harlan M. Hatfield	Vice President and Assistant Secretary	<u>04/09/2003</u> 05/12/2004
John R. Shaal	Vice President of Operations	01/10/2011
Scott Ballard	Treasurer <u>Vice President of Finance</u>	04/15/2009<u>04/01/2010</u>
Scott L. Jackson	Treasurer	04/01/2010
Curtis J. Brown	Secretary	08/18/2004
Mike Mildenhall	Assistant Secretary	04/01/2010
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>
William H. Gehrmann	President	04/17/2009
Steven G. Stewart <u>Donald P. Newman</u>	Corporate Financial Officer and Manager	<u>09/04/2007</u> <u>01/10/2011</u>
John Shaal	Vice President	04/17/2009
Harlan M. Hatfield	Vice President and Manager	<u>08/09/2004</u> <u>06/01/2006</u>
Scott Ballard	Treasurer <u>Vice President of Finance</u>	04/17/2009<u>04/01/2010</u>
Scott L. Jackson	Treasurer	04/01/2010
Curtis J. Brown	Officer <u>Secretary</u>	08/09/2004
Jason T. Day	Officer	08/09/2004
Mike Mildenhall	Assistant Secretary	04/01/2010

The addresses and phone numbers for the officers and directors of Headwaters Incorporated,

COVOL Engineered Fuels, LC
| Dry-Coal Cleaning Facility

Permit Application
~~July 2009~~ April 2011

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~~ Director, Regulatory Compliance;
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
<u>Mining and Reclamation Permit (C0070045)</u>	<u>Utah Department of Natural Resources, Division of Oil, Gas and Mining</u>	<u>Approved</u>

The COVOL operations permit number is to be determined by the Utah Division of Oil, Gas, and Mining (“DOG M”), which is the issuing authority for the facility. The permits and operations held by subsidiary companies of Headwaters Energy Services Corporation are indicated in Table 1-1.

Neither Wellington City nor Carbon County required COVOL to file development plans prior to construction of the facility. Neither of these local governmental bodies placed reclamation obligations on COVOL or required that COVOL file a reclamation bond. Wellington City issued a Conditional Use Permit to COVOL to grant a variance for the height of their loadout silo. A copy of the Conditional Use Permit is provided in Appendix 1-4. Headwaters Incorporated provided Wellington City with a letter of assurance that Headwaters would “lend its financial support and cause Covol to manage the coal and residual material located at the facility in accordance with applicable laws.” In this letter, Headwaters also indicated that they would “ensure that Covol will remove all coal and residual material location on the property (excluding material used for improvements).” A copy of this letter of assurance is provided in Appendix 1-4.

1.1.2.5 Legal or Equitable Owner of the Surface and Mineral Properties to be Mined

COVOL Engineered Fuels, LC is the legal and equitable owner of the entire 30-acre surface parcel included within the permit area. There will be no mining at this facility. Thus, the mineral properties will not be affected by the operation. A property ownership map of the permit and adjacent areas is presented as Figure 5-2. No area within the lands to be affected by the facility is under a real estate contract.

1.1.2.6 Owners of Record of Property Contiguous to Proposed Permit Area

The following owners of surface lands are contiguous to the permit boundary:

High Country Forest Products
8243 Old Federal Road
Montgomery, Alabama 36117

Price City
185 East Main Street
Price, Utah 84501

State of Utah
203 State Capitol Building
Salt Lake City, Utah 84114

Circle K Ranch
P.O. Box 700
Price, Utah 84501

Denver and Rio Grande Western Railroad
1700 Farnham Street
10th Floor South
Omaha, Nebraska 68102

The locations of these lands relative to the permit area are shown on Figure 5-2A.

1.1.2.7 MSHA Numbers

The MSHA number for the operation is: 42-02398

1.1.2.8 Interest in Contiguous Lands

The applicant neither owns nor controls, directly or indirectly, a legal equitable interest in any lands contiguous to the permit area.

1.1.3 Violation Information

Neither the company nor any major stockholder of the company having any interest, either legal or equitable, in the COVOL facility have had a State or Federal mining permit suspended or revoked or a security deposited in lieu of bond revoked. The following Notices of Non-compliance have been issued within the last 3 years to a permittee other than COVOL but where COVOL Fuels No. 3, LLC is an operator:

~~Notice of Non-compliance #23-0689~~

~~Issuing agency: Kentucky Division of Mine Reclamation and Enforcement~~

~~Permit No. 807-8052~~

~~Permittee: Chas Coal, LLC~~

~~Operator: COVOL Fuels No. 3, LLC~~

~~Date of non-compliance: 7/28/2008~~

~~Description: Permittee has failed to follow their approved permit by drilling several unapproved slurry injection holes in Little Camp Branch. Also, the company has drilled water withdrawal holes in Little Camp Branch. These holes have been proposed under Major Revision #9, but the revision has not yet been issued.~~

~~Corrective action: Major Revision # 9 was approved and work could proceed as permitted.~~

~~Status: Abated~~

~~Abatement date: 12/1/2008~~

Notice of Non-compliance #23-1241

Issuing agency: Kentucky Division of Mine Reclamation and Enforcement

Permit No. 807-8052

Permittee: Chas Coal, LLC

Operator: COVOL Fuels No. 3, LLC

Date of non-compliance: 2/26/2009

Description: The company has placed coarse refuse in an unapproved location on the Little Camp Branch slurry impoundment.

Corrective action: Being contested.

Status: This Notice is being contested because coarse refuse can be placed on a temporary basis anywhere within the permit area. Coarse refuse will be moved to an approved permanent storage location once weather permits. Mud and steep slopes currently prevent access to the permanent storage locations.

Notice of Non-compliance #23-1086

Issuing agency: Kentucky Division of Mine Reclamation and Enforcement

Permit No. 807-7016

Permittee: Chas Coal, LLC

Operator: COVOL Fuels No. 3, LLC

Date of non-compliance: 6/11/2009

Description: Permittee has failed to construct and maintain access roads A-A and C according to approved designs.

Corrective action: A permit revision was obtained to show current culvert design on A-A

Status: New culverts will be installed on access road C in the spring when the weather permits this type of work.

Notice of Non-compliance #23-0033

Issuing agency: Kentucky Division of Mine Reclamation and Enforcement

Permit No. 807-0298

Permittee: Chas Coal, LLC

Operator: COVOL Fuels No. 3, LLC

Date of non-compliance: 7/13/2009

Description: Permittee has failed to reclaim areas in accordance with the approved time frames and failed to revegetate backfill areas.

Corrective action: Reclamation and revegetation is scheduled for spring 2011 when the weather will allow access to the permitted area.

Status: Reclamation scheduled for spring 2011.

Notice of Non-compliance #23-0040

Issuing agency: Kentucky Division of Mine Reclamation and Enforcement

Permit No. 807-0324

Permittee: Chas Coal, LLC

Operator: COVOL Fuels No. 3, LLC

Date of non-compliance: 9/4/2009

Description: Permittee failed to submit annual certification of maintenance on impoundments #286, 288, 291, 292, and 287. Trees must be removed from emergency spillway on these ponds and remove debris blocking the principal spillway on ponds 291 and 288.

Corrective action: Trees and debris will be removed in spring 2011 when the weather will allow access to the permitted area. Once trees and debris is removed, the certification will be completed and submitted.

Status: Work is scheduled for spring 2011.

1.1.4 Right-of-Entry Information

The facility is located on lands that are entirely owned by the operator (see Appendix 1-3). Hence, no other right of entry is required.

1.1.5 Status of Unsuitability Claims

Since there is no mining at this facility, the issue of unsuitability claims is not applicable.

1.1.6 Permit Term

The following information is presented to identify permit term requirements and stipulations. The Applicant began operating the facility in January 2006 using an air-jig method to process coal-bearing materials. Termination of operations will be determined by economic conditions. The timing of this termination is, therefore, unknown. It is anticipated that the Applicant will operate at the site for a period in excess of 5 years.

The anticipated total acreage to be affected during operations is 30 acres. The permit and adjacent areas have been zoned by Wellington City for "light industrial purposes" (Zone M-1). Permitted uses under this zoning include a variety of industrial and manufacturing operations, as indicated in Appendix 1-4. Since the land occupied by the facility has been zoned for general

industrial use and will be used for that purpose following the cessation of COVOL's operations, complete site reclamation will not be required (See chapters 4 and 5).

1.1.7 Insurance and Proof of Publication

Certificates of Insurance issued to COVOL are provided in Appendix 8-1. A copy of the newspaper advertisement is provided in Appendix 1-5 indicating that the application has been determined by DOGM to be administratively complete.

1.1.8 Filing Fee

The permit filing fee was paid upon submittal of the application.

1.20 Permit Application Format and Contents

The permit application contains clear, concise, current information, in the format of the DOGM regulations.

1.30 Reporting of Technical Data

All technical data submitted in the permit application is accompanied by the names of persons or organizations that collected and analyzed the data. The technical data also contains the dates of collection and analysis of the data, and descriptions of the method used to collect and analyze data, as indicated in subsequent sections of this application. Professionals qualified in the subject, planned or directed the technical analyses. These professionals included the following:

- Richard B. White, P.E. – President/Civil and Environmental Engineer, EarthFax Engineering, Inc. (engineering, hydrology, bonding, alluvial valley floors)
- Ari Menitove – Geological Engineer, EarthFax Engineering, Inc. (geology, soils)

- Chris Jensen – Consultant, Canyon Environmental, LLC (cultural resources, biology)
- Gina Rau – ~~Environmental Manager~~ Director, Regulatory Compliance, Headwaters Incorporated (legal, financial, compliance, land use, air quality)

1.40 Maps and Plans

The maps submitted in this permit application correspond to the format required by the regulations. The entire permit area was developed prior to the initial submittal of this permit application on January 15, 2008.

1.50 Completeness

The Applicant believes the information in this application to be complete and correct.

TABLE 1-1

Related-Entity Permits

Entity and State	Permit	Issuing Authority	Status
COVOL Engineered Fuels, LC (Alabama) FEIN 90-0221443	Operator on Mine Permits P3247 (MSHA ID 01-03364 issued 5/24/2007), P3256 (MSHA ID 01-03365 issued 5/24/2007), P3257 (MSHA ID 01-03278 issued 5/1/2006), and P3260 (MSHA ID 01-03362 issued 4/20/2007)	Alabama Surface Mining Commission	Issued
COVOL Fuels No. 2, LLC (Indiana) FEIN 37-1554450	Permittee on Mine Permit P-00004 (MSHA ID 12-02397 issued 3/23/2007)	Indiana Dept of Natural Resources	Issued
COVOL Fuels No. 2, LLC (Indiana) FEIN 37-1554450	NPDES Permit No. ING040176 (MSHA ID 12-02397 issued 3/23/2007)	Indiana Dept of Environmental Management	Issued
COVOL Fuels No. 2, LLC (Indiana) FEIN 37-1554450	SSOA 167-27370-00055 [Air Permit] (MSHA ID 12-02397 issued 3/23/2007)	Indiana Dept of Environmental Management	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	Permittee on Mine Permit 889-8005 (MSHA ID 15-19205 issued 3/21/2008)	Kentucky Division of Mine Permits	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	KPDES Permit No. 0107158 (MSHA ID 15-19205 issued 3/21/2008)	Kentucky Division of Water	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	Air Permits S-07-145 (MSHA ID 15-19205 issued 3/21/2008) and S-08-039 (MSHA ID 15-19071 issued 12/6/2007)	Kentucky Division of Air Quality	Issued
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	UIC Permit KYV0047 (MSHA ID 15-19205 issued 3/21/2008)	USEPA Region 4	Issued
<u>COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450</u>	<u>UIC Permit KYV0053 (MSHA ID 15-19205 issued 3/21/2008)</u>	<u>USEPA Region 4</u>	<u>Issued</u>
COVOL Fuels No. 3, LLC (Kentucky) FEIN 37-1554451	Operator on Mine Permits 807-8051 and 807-8052 807-7016, 807-0298, 807-0324 (MSHA ID 15-12682 issued 12/7/2007)	Kentucky Division of Mine Permits	Issued
COVOL Fuels No. 3, LLC (Kentucky) FEIN 37-1554451	Operator Permittee on Mine Permits 807-8062, 807-8063, 807-0386, 807-0389, 807-0390, 807-0391, 807-0392, 807-5228, 807-5229, 807-5230, 807-90034 (MSHA ID 15-12682 issued 12/7/2007)	Kentucky Division of Mine Permits	Issued
COVOL Fuels No. 4, LLC (West Virginia) FEIN 37-1554452	Operator on Mine Permit No. 0402292 (MSHA ID 46-09146 issued 2/18/2008)	WV Dept of Env. Protection	Issued

COVOL Engineered Fuels, LC
| Dry-Coal Cleaning Facility

Permit Application
~~July 2009~~ April 2011

COVOL Fuels No. 4, LLC (West Virginia) FEIN 37-1554452	Air Permit G10-C104 (MSHA ID 09146 issued 2/18/2008)	WV Department of Environmental Protection	Issued
COVOL Fuels No. 5, LLC (Alabama) FEIN 37-1554453	Operator on Mine Permit P3199 (MSHA ID 01-00563 issued 7/1/2008)	Alabama Surface Mining Commission	Issued

2.3.1.4 Construction, Modification, Use, and Maintenance of Topsoil Stockpiles

The two topsoil storage piles at the facility were constructed in August 2005 and consist of ~~approximately 5001,302~~ cubic yards of soil that was removed from the ground surface during site grading prior to constructing the facility. Since the topsoil averaged less than six inches thick, it was not segregated before it was stockpiled. The stockpiled materials were initially placed on a stable surface in the southeast portion of the permit area but were then moved in October 2010 to the location indicated on Plate 5-1 to accommodate site activities. ~~The west stockpile contains 302 yd³ of topsoil and the southwest stockpile contains 1,000 yd³ of topsoil.~~ The stockpiles were protected from wind and water erosion by being revegetated on November 18, 2010 with the seed mix contained in Table 3-1 (minus *Eriogonum inflatum*, *Oenothera caespitosa*, and *Stipa hymenoides* due to a lack of availability at the time) and by installing silt fencing below the stockpiles to help trap sediment coming off the stockpiles. A marker has been placed on the piles to indicate that they contain topsoil. It is not anticipated that this topsoil will be moved or disturbed again until required for redistribution during final reclamation.

2.3.2 Topsoil and Subsoil Removal

2.3.2.1 Topsoil Removal and Segregation

It is not anticipated that additional soil disturbances will occur at the site. However, if such disturbances do occur, all topsoil thicker than 6 inches will be removed prior to disturbance as a separate layer from the subsoil, segregated, and stockpiled separately. Topsoil less than 6 inches thick will be removed according to Section 2.3.2.3.

2.3.2.2 Poor Topsoil

Topsoil that is of an insufficient quantity or of poor quality (for sustaining vegetation) will be removed as a separate layer and segregated. Such operations will be done with approval of DOGM and in compliance with R614-301-233.100.

2.3.2.3 Thin Topsoil

Topsoil to be removed that is less than 6 inches thick will be removed with the immediately underlying unconsolidated materials. This material mixture will be treated as topsoil.

The DWR has also indicated that burrowing owls may be present in the general vicinity of the COVOL site. A burrowing owl assessment was conducted of the area on September 25, 2008 by Chris Jensen, Project Biologist with Canyon Environmental. Mr. Jensen's qualifications for conducting this assessment are summarized in Appendix 3-2. This assessment was conducted by walking transects across the permit and adjacent areas at a spacing of 10 to 15 feet. In the absence of specific guidelines established by the State of Utah for conducting these assessments, guidelines promulgated by the States of Arizona, California, and Colorado were used for this assessment. Anthony Wright, Regional Sensitive Species Biologist with the DWR, indicated that these methodologies were appropriate for use in Utah (see Appendix 3-1). No burrows indicating the presence of burrowing animals were found within or adjacent to the site. However, prairie dogs and their burrows were observed approximately one-half mile east of the site near Ridge Road and appropriate habitat for prairie dogs and burrowing owls is located south and east of the permit area as noted in Appendix 3-1.

In order to best determine the presence or absence of burrowing owls in the areas adjacent to the coal cleaning facility, COVOL ~~will ensure that a qualified individual acting on behalf of the company will conduct~~ ed an additional burrowing owl survey ~~during the appropriate time of calendar year in June~~ 2010. A representative from COVOL ~~will consult~~ ed with DWR and DOGM prior to conducting the survey to verify the appropriate time and protocol to be used to implement the survey. ~~Appendix A, Figure 3, Wildlife Habitat will be revised accordingly to accurately reflect the habitat for burrowing owls. The results of this survey have been placed in the DOGM confidential file.~~

Given the lack of perennial surface water, there is no fish habitat within the permit area.

3.2.2.1 Level of Detail

The scope and level of detail within this document are sufficient to design the protection and enhancement plan for wildlife and fish in the area.