

C/007/045 Incoming

#4304
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EarthFax

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April 30, 2013

Mr. Daron Haddock
Coal Program Manager
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, UT 84114-5801



Subject: COVOL Wellington Dry-Coal Cleaning Facility
Permit No. C/007/0045 Operator Change
DOG M Task ID #4304

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DIV. OF OIL, GAS & MINING

Dear Mr. Haddock:

On behalf of Covol Engineered Fuels, I am pleased to submit the two attached clean copies of an amendment to the Mining and Reclamation Plan for the Welling Dry-Coal Cleaning Facility. This amendment concerns a change in operators at the facility. The documentation being submitted herewith includes Form C1, Form C2, amended text, and a new Figure.

If you have any questions regarding this material, please contact Tom Schmaltz at (706)549-7903. Thank you.

Sincerely,

Richard B. White, P.E.
President
EarthFax Engineering, Inc.

Enclosure

cc: Tom Schmaltz

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.

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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 of the dry coal cleaning facility located in Carbon County, Utah. Bowie Refined Coal, LLC ("BRC") is the operator of the facility. The facility is located within Section 14, Township 15 South, Range 10 East, SLBM, approximately 2 miles west of Wellington, Utah. No entity owns 10% or more of the stock of Headwaters Incorporated.

1.1.2.1 Business Entity

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

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: Bowie Refined Coal, LLC
6100 Dutchmans Lane, Suite 900

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Louisville, KY 40205
(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
Donald P. Newman	Chief Financial Officer	12/8/2010
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:

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Director (owns <5%): Donald P. Newman (Position assumed 1/10/2011)

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Officers (all own <5%):

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<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
Donald P. Newman	Chief Financial Officer	1/10/2011
William H. Gehrman	President	04/15/2009

Stephanie Black	Vice President	04/15/2009
Harlan M. Hatfield	Vice President	05/12/2004
John R. Shaal	Vice President of Operations	01/10/2011
Scott Ballard	Vice President of Finance	04/01/2010
Scott L. Jackson	Treasurer	04/01/2010
Curtis J. Brown	Secretary	08/18/2004
Mike Mildenhall	Assistant Secretary	04/01/2010

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. Gehrman	President	04/17/2009
Donald P. Newman	Corporate Financial Officer and Manager	01/10/2011
John Shaal	Vice President	04/17/2009
Harlan M. Hatfield	Vice President and Manager	06/01/2006
Scott Ballard	Vice President of Finance	04/01/2010
Scott L. Jackson	Treasurer	04/01/2010
Curtis J. Brown	Secretary	08/09/2004
Mike Mildenhall	Assistant Secretary	04/01/2010

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:

Thomas C. Schmaltz
Corporate Environmental Director
Headwaters Incorporated
1160 Millstone Road
Bogart, GA 30622
(706)549-7903

The directors and officers of BRC (FEIN 46-0911657) are:

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<u>Name</u>	<u>Title</u>	<u>Date position was assumed</u>
Steve Rickmeier (90% owner)	Managing Member	09/20/2012
James F. Wolff (10% owner)	Chief Financial Officer	09/20/2012
Justin F. Thompson	VP of Operations	09/20/2012

Mr. Rickmeier's ownership of BRC is divided between Rickmeier Advisors, Inc. (FEIN 36-4483193, owning 45% of BRC) and Rickmeier Partners LP (FEIN 35-2202674, owning 45% of BRC). Mr. Wolff's ownership of BRC is held by Wolff Consulting LLC, which is registered under his confidential social security number. These individuals hold the same positions and the same ownership percentages in each of the following companies:

- Bowie Refined Management LLC
- BRC Chinook LLC
- BRC Pinnacle LLC
- BRC Rockcrusher LLC
- BRC Greenfuels LLC
- BRC Alabama No. 3 LLC
- BRC Alabama No. 4 LLC
- BRC Alabama No. 5 LLC
- BRC Alabama No. 7 LLC

These individuals also have partial ownership, through BRC, in DB RC Investments II, LLC, which then owns 100% of BRC Minuteman LLC and BRC Wellington LLC. The organizational structure of BRC is outlined in Figure 1-2.

BRC has purchased the assets of COVOL, including the assets of the equivalent above-named COVOL companies. As such, the identifying numbers presented herein for the equivalent COVOL companies now apply to the above-named BRC companies.

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:

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<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
Mining and Reclamation Permit (C0070045)	Utah Department of Natural Resources, Division of Oil, Gas and Mining	Approved

The COVOL operations permit number is to be determined by the Utah Division of Oil, Gas, and Mining (“DOGM”), 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

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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

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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 #23-1086

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.

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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 are 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.

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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

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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 – 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.

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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
COVOL Fuels No. 2, LLC (Kentucky) FEIN 37-1554450	UIC Permit KYV0053 (MSHA ID 15-19205 issued 3/21/2008)	USEPA Region 4	Issued
COVOL Fuels No. 3, LLC (Kentucky) FEIN 37-1554451	Operator on Mine Permits 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	Permittee on Mine Permits 807-8062, 807-8063, 807-0386, 807-0389, 807-0390, 807-0391, 807-0392, 807-5228, 807-5229, 807-5230, 807-9004 (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 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

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Figure 1-2. Organizational Structure of Companies Associated with Bowie Refined Coal LLC

