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DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

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Division Director

CO070045
Outgoing
#4388
OK

August 16, 2013

James F. Wolff
BRC Wellington, LLC
6100 Dutchmans Lane, Suite 900
Louisville, KY 40205

Subject: Permit Transfer, Headwaters Energy Services Corporation, Covol Engineered Fuels, C/007/0045 Task ID #4388

Dear Mr. Wolff:

The Division has reviewed your permit transfer application for the Wellington Dry-coal Cleaning Facility. The Division has identified deficiencies that must be addressed before final approval can be granted. The deficiencies are listed as an attachment to this letter.

The initials of the deficiency authors are provided so that your staff can communicate directly with that individual should questions arise. The application as submitted is denied. Please resubmit the entire application by September 20, 2013. When the application is resubmitted, you may publish the notice with the changes noted in the list of deficiencies.

If you have any questions, please call me (801) 538-5325 or Steve Christensen (801) 538-5350.

Sincerely,

Daron R. Haddock
Coal Program Manager

DRH/SKC/ss
cc: Richard White, EarthFax
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Deficiency List

Task No. 4388

Permit Transfer

Members of the review team with outstanding deficiencies:
Steve Christensen (SC)

R645-301-112: The Permittee must revise the first paragraph of page 1-2 to identify the relationship of DB RC Investments I, LLC to the applicant. DB RC Investments I, LLC is discussed/identified on page 1-3 and on the bottom of page 1-4, but not identified in the first paragraph of page 1-2 under the '*Identification of Interests*' section. Additionally, on page 1-2 and 1-6, the Permittee references Figure 1-1. Figure 1-1 in the currently approved MRP provides the organizational structure. Figure 1-1 is not provided with the application. The Permittee must provide the organizational structure of BRC Wellington, LLC, Bowie Refined Coal LLC, DB RC Investments I LLC, DB RC Investments II LLC and the various subsidiaries of Deutsche Bank.

R645-301-112.230: The Permittee must provide the tax payer identification number for the "*applicant and the operator*". The tax payer identification number is provided for the applicant (BRCW- FEIN 36-4743889) on page 1-3, but not for the operator (Bowie Refined Coal, LLC).

R645-301-112.220: The Permittee must provide the applicant's resident agent. The cover letter of the application identifies Kyle Edwards as the resident agent; however, this information does not appear to be in the application.

R645-301-112.300: The Permittee must provide the telephone number provided for the applicant on page 1-2. The number provided in the application is (502) 58-6022. Please revise the typo.

R645-301-114.100: The Permittee must provide a description of the documents upon which the applicant bases their legal right to enter and begin coal mining and reclamation operations in the permit area and state whether that right is the subject of pending litigation. The description will identify the documents by type and date of execution, identify the specific lands to which the document pertains and explain the legal rights claimed by the applicant. Upon review of the application, updates/revisions to Appendix 1-3, *Property Warranty Deeds*, have not been provided.

R645-303-322: The Permittee must advertise the filing of the application in a newspaper of general circulation in the locality of the operation. No later than 4 weeks after the date of publication, the Permittee is required to submit proof of publication to the Division. The proposed notice as submitted should be slightly revised as follows: 1) The request for informal conference should be taken out since this is not a requirement for transfers, and 2) The Price Field Office should be removed since it is not an official location for Division Documents.

R645-301-121.100: The Permittee must revise the application on page 1-5 to reflect that Brian Pate is no longer associated with BRC Wellington, LLC and provide an updated contact.

R645-301-890: The Permittee must submit a certificate issued by an insurance company, authorized to do business in Utah, certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation activities for which the permit is sought. Minimum insurance coverage for bodily injury and property damage will be \$300,000 for each occurrence and \$500,000 aggregate.

R645-303-323, -342: The Permittee must obtain and submit to the Division, appropriate performance bond coverage, or other guarantee in an amount sufficient to cover the proposed operations performance or obtain the bond coverage of the original Permittee.