GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining
JOHN R. BAZA
Division Director

May 17, 2017

Kyle Edwards, Resident Agent
BRC Wellington, LLC
P.O. Box 401
Wellington, Utah 84542

Subject: Midterm Review Response, BRC Wellington, LLC, Wellington Dry-Coal Cleaning Facility, Task ID #5316, C/0070045

Dear Mr. Edwards:

The Division of Oil, Gas and Mining (the Division) completed its midterm review of the Wellington Dry-Coal Cleaning Facility on February 2017. As part of that review, several deficiencies were identified by Division staff that required a response. March 31st, 2017 was the deadline established for you and your staff to provide the Division with a response to those deficiencies (See Attached February 24th, 2017 Midterm Completion Letter). On April 10th, 2017, after having not received a response to the deficiencies or a request for a deadline extension, Division staff reached out to you and set up a meeting/conference-call to discuss the deficiencies. The meeting took place on April 25th, 2017.

One of the deficiencies addressed was the required reclamation bond amount. The evaluation of the bond amount was identified under Item E in the Midterm Review Commencement Letter sent to you on December 1st, 2016. State of Utah R645 rules require that adequate bond coverage be in effect at all times, that the amount of bond will be adjusted by the Division from time to time and that an additional inflation factor will be added to the sub-total for the permit term (See R645-301-812.700, -830.410 and -830.300 respectively). The mid-term review process is the method utilized to meet these rule requirements and to insure that the amount of bond held by the Division is adequate and reflects the current conditions and reclamation requirements of the site.

As discussed at the April 25th, 2017 meeting, the amount of material currently located in the 'Coal Storage Area' (See Plate 5-1, General Site Map) was not contemplated during the permitting of the site. As a result, the current reclamation bond does not account for the reclamation/removal of this material. At the meeting you indicated that the volume of material currently on site is approximately 2/3rd of the maximum amount of material ever stored at the site. It was agreed at the aforementioned meeting that in order to determine the amount of bond required to reclaim/remove this material: 1) The site would be surveyed in order to calculate the volume of the material on site. 2) 50% of that surveyed volume would be added on for bond calculation purposes. As discussed at the meeting, the intent of doing

this would be to establish some additional bond coverage for future expansion and storage of material. In summary, the current reclamation bond is inadequate and needs to be revised accordingly to reflect current conditions at the site as well as be escalated for inflation as required by rule.

Division staff communicated with you on May 3rd, 2017 during a field inspection that your response to the deficiencies was due May 17th. As of the writing of this letter, the Division has not received the deficiency responses. In order to avoid enforcement action being taken for operating without adequate bond, please respond to the outstanding deficiencies no later than May 31st, 2017. Operating without adequate bond can result in a cessation order being issued at which point, you would no longer be able to operate.

If you have any questions, please call me at (801) 538-5325.

Sincerely,

Daron R. Haddock

Daron R. Haddock
Coal Program Manager

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GARY R. HERBERT
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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining
JOHN R. BAZA
Division Director

February 24, 2017

Kyle Edwards, Resident Agent
BRC Wellington, LLC
P.O. Box 401
Wellington, Utah 84542

Subject: Completion of Midterm Review, Task #5316, BRC Wellington, LLC, Wellington Dry-Coal Cleaning Facility, C/007/0045

Dear Mr. Edwards:

On December 1, 2016, BRC Wellington, LLC was informed that the Division of Oil, Gas and Mining (the Division) had commenced a midterm permit review for the Wellington Dry-Coal Cleaning Facility.

The midterm review has now been completed and will now be closed; however, the Division has identified deficiencies that must be addressed. The deficiencies have been included with this letter (See Attached). The name of the author for each of the respective deficiencies has been provided.

Your response to these deficiencies will need to be submitted as an amendment to your MRP and will be processed as a separate task. Please submit the required amendment with the accompanying C1 and C2 forms by no later than March 31, 2017.

If you have any questions regarding these requirements or the Midterm Review process, please don't hesitate to call me at 801-538-5325.

Sincerely,

Daron R. Haddock

Daron R. Haddock
Coal Program Manager

DRH/sqs

UTAH DNR OIL, GAS & MINING

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
MICHAEL R. STYLER
Executive Director
Division of Oil, Gas and Mining
JOHN R. BAZA
Division Director

Technical Analysis and Findings

Utah Coal Regulatory Program

PID: C0070045
TaskID: 5316
Mine Name: WELLINGTON DRY-COAL CLEANING FACILITY
Title: MIDTERM PERMIT REVIEW

General Contents

Identification of Interest

Analysis:

The midterm permit review meets the State of Utah R645 requirements for R645-301-112 Ownership and Control.

The Division performed a crosscheck with the Applicant/Violator System and the Ownership and Control information provided in the MRP, Chapter 1. The Ownership and Control information located in the MRP was updated and incorporated on September 16, 2016. No discrepancies were found.

ssteab

Identification of Interest

Analysis:

The mining and reclamation plan (MRP) does not meet the State of Utah R645 requirements for Identification of Interests.

On page 1-2 of the approved MRP, the Permittee indicates that BRC Wellington, LLC (BRCW) and Bowie Refined Coal LLC (BRC) are both limited liability companies. Additionally, on page 1-2, the MRP states, " BRC Wellington LLC (BRCW) is a subsidiary of DB RC Investments II LLC and an affiliate of Bowie Refined Coal LLC and various subsidiaries of Deutsche Bank." BRCW is further identified as the owner of the property. The name, address and telephone number for BRC Wellington LLC is provided on page 1-2 (the applicant). Bowie Refined Coal LLC (BRC) is identified as the operator with the address and telephone number provided on page 1-3 of the MRP. Additionally, BRC is the owner and/or managing member of DB RC Investments I, LLC and DB RC Investments II, LLC. The addresses and phone numbers for the officers and directors of DB RC Investments I, LLC, DB RC Investments II, LLC and BRC are the same as the applicant.

The Permittee must clarify the relationship of Bowie Refined Management, LLC as depicted on Figure 1-1, Organizational Structure of Companies Associated with Bowie Refined Coal, LLC. Bowie Refined Management, LLC is not identified/discussed in Section 1.1.2, Identification of Interests. BRC Wellington, LLC (BRCW) is identified as the applicant; whereby Bowie Refined Coal, LLC (BRC) is identified as the operator of the facility. The officers/directors and functional relationship between the operator, applicant and Bowie Refined Management, LLC must be addressed. In doing so, the requisite information relative to R645-301-112 must be revised accordingly if necessary.

The tax-payer identification numbers for BRC, BRCW as well as DB RC Investments I, LLC, DB RC Investments II, LLC are provided on pages 1-2 and 1-3 of the approved MRP.

The Permittee must revise Section 1.1.2.3 to clarify who or what entities own the remaining 10% of Bowie Refined Coal, LLC (BRC) as well as 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. BRC is the owner and/or managing member of DB RC Investments I, LLC and DB RC Investments II, LLC. BRCW is an affiliate of BRC. On page 1-4 of the approved MRP, the Permittee indicates that Steve Rickmeier is 100% owner of BRC and that Mr. Rickmeier's ownership of BRC is divided between Rickmeier Advisers, Inc (owning 45% of BRC) and Rickmeier Partners (owning 45% of BRC). Upon review of this information, it's unclear who owns the remaining 10% of BRC. The Permittee must clarify this remaining ownership and revise the MRP accordingly per the requirements of R6454-301-112. Additionally, the MRP indicates on page 1-4 that Mr. Rickmeier holds the same position and ownership percentage (909%) in the aforementioned companies. Previously, James F. Wolff had been identified as the Chief Financial Officer with a 10% ownership in BRC. James F. Wolff was removed from the ownership and control information per Task ID #5269 (Final approval September 16th, 2016).

The resident agent information is provided on page 1-3 of the approved MRP.

The Permittee must revise chapter 1 to reflect any additional coal mining and reclamation operations owned or controlled by either the applicant or operator in the last five years and provide any required information as outlined in R645-301-112.410 thru -112.420. Table 1-1, Related Entity Permits provides a tabulated list of other coal mining and reclamation operations of which the applicant is either currently operating or operated in the past dating back to 2008.

On page 1-4 of the approved MRP, the Permittee indicates that Mr. Rickmeier holds the same position (Managing Member) and ownership percentage (90%) in 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. Additionally, the MRP indicates that Mr. Rickmeier also has partial ownership, through BRC, in DB RC Investments II, LLC which owns 100% of BRC Minuteman LLC and BRC Wellington LLC. The organizational structure is provided in Figure 1-1.

On page 1-5 of the MRP, the Permittee indicates that "Bowie Refined Coal, LLC is the legal and equitable owner of the entire 30-acre surface parcel included within the permit area". As active coal mining does not occur at the site, the mineral properties are not affected by the operation. A property ownership map of the permit and the adjacent areas is provided in Figure 5-2 of the MRP. No area within the lands to be affected by the facility is under a real-estate contract.

Beginning on the bottom of page 1-5, the MRP provides the owners of surface lands that are contiguous to the permit boundary.

The MSHA number for the site is 42-02398. On Page 1-6 of the MRP, the Permittee indicates that "the applicant neither owns nor controls, directly or indirectly, a legal equitable interest in any lands contiguous to the permit area".

Deficiencies Details:

The mining and reclamation plan (MRP) does not meet the State of Utah R645 requirements for Identification of Interests. The following deficiencies must be addressed prior to final approval:

R645-301-112: The Permittee must clarify the relationship of Bowie Refined Management, LLC as depicted on Figure 1-1, Organizational Structure of Companies Associated with Bowie Refined Coal, LLC. Bowie Refined Management, LLC is not identified/discussed in Section 1.1.2, Identification of Interests. BRC Wellington, LLC (BRCW) is identified as the applicant; whereby Bowie Refined Coal, LLC (BRC) is identified as the operator of the facility. The officers/directors and functional relationship between the operator, applicant and Bowie Refined Management, LLC must be addressed. In doing so, the requisite information relative to R645-301-112 must be revised accordingly if necessary.

R645-301-112: The Permittee must revise Section 1.1.2.3 to clarify who own the remaining 10% of Bowie Refined Coal, LLC (BRC) as well as 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. BRC is the owner and/or managing member of DB RC Investments I, LLC and DB RC Investments II, LLC. BRCW is an affiliate of BRC. On page 1-4 of the approved MRP, the Permittee indicates that Steve Rickmeier is 100% owner of BRC and that Mr. Rickmeier's ownership of BRC is divided between Rickmeier Advisers, Inc (owning 45% of BRC) and Rickmeier Partners (owning 45% of BRC). Upon review of this information, it's unclear who owns the remaining 10% of BRC. The Permittee must clarify this remaining ownership and revise the MRP accordingly per the requirements of R6454-301-112. Additionally, the MRP indicates on page 1-4 that Mr. Rickmeier holds the same position and ownership percentage (90%) in the aforementioned companies. Previously, James F. Wolff had been identified as the Chief Financial Officer with a 10%

ownership in BRC. James F. Wolff was removed from the ownership and control information per Task ID #5269 (Final approval September 16th, 2016).

R645-301-112.400: The Permittee must revise chapter 1 to reflect any additional coal mining and reclamation operations owned or controlled by either the applicant or operator in the last five years and provide any required information as outlined in R645-301-112.410 thru -112.420. Table 1-1, Related Entity Permits provides a tabulated list of other coal mining and reclamation operations of which the applicant is either currently operating or operated in the past dating back to 2008.

schriste

Violation Information

Analysis:

The midterm permit review does not meet the State of Utah R645 requirements for R645-300-132 Violation Information.

A report was generated in the Applicant/Violator System (AVS) on December 6, 2016. The report generated 2 outstanding violations:

254039 BRC Chinook LLC Violation #C610114-P004/1 State Cessation Order
254039 BRC Chinook LLC Violation #C61014-P004/2 State Cessation Order

ssteab

Violation Information

Analysis:

The approved MRP does not meet the State of Utah R645 requirements for Violation Information.

On page 1-7 of the MRP, the Permittee states, "Neither BRCW nor any major stockholder of BRCW having any interest, either legal or equitable, in the Wellington facility have had a State or Federal mining permit suspended or revoked or a security desposited in lieu of bond revoked. No Notices of Non-compliance have been issued within the last 3 years to BRCW or a related entity."

Division staff generated an Applicant Violator System Report (AVS) on February 14th, 2017. Six state cessation orders were identified as outstanding in two states (Indiana and Kentucky). Additionally, based on previous permitting actions with Bowie Refined Coal, the Division has learned that there have been numerous notice of violations issued within the last three years.

Per the requirements of R645-301-113 through R6454-301-113.400, the Permittee must update the Violation Information within the MRP.

Deficiencies Details:

The approved MRP does not meet the State of Utah R645 requirements for Violation Information. The following deficiency must be addressed:

R645-301-113 thru -113.400: The Permittee must update the Violation Information within the MRP.

schriste

Right of Entry

Analysis:

The approved MRP meets the State of Utah R645 requirements for Right of Entry.

In Appendix 1-3, the Permittee provides a copy of the Corrective Special Warranty Deed between Covol Engineered Fuels, LLC and Bowie Refined Coal LLC. Exhibit A of Appendix 1-3 provides a copy of the lease agreement between Bowie Refined Coal LLC and BRC Wellington, LLC.

schriste

Legal Description

Analysis:

The MRP describes and identifies the lands (on a map) subject to coal mining over the life of the operation, including the size, sequence, and timing of the mining anticipated and permit boundaries. The description of the land is located in Appendix 1-3 which is Fee land owned by the Bowie Refined Coal, LLC as shown in property Warranty Deed Exhibit A. This description was mapped by the Division using ESRI COGO tools and matches the property boundary located on Plates 5-1, 5-2, and 7-2

lreinhart

Legal Description

Analysis:

The approved MRP meets the State of Utah R645 requirements for Legal Description.

Plate 5-1, General Site Map Wellington Dry Coal Cleaning Facility, clearly depicts the permit boundary. A legal description is also provided in Appendix 1-3. As active mining does not occur at the facility, the unsuitability requirements are not applicable.

schriste

Permit Term

Analysis:

The approved MRP meets the State of Utah R645 requirements for Permit Term.

The Permittee indicates that the termination of operations at the facility will be determined by economic conditions. As a result, the termination of operations is unknown. However; it is anticipated that the Applicant will operate the site for a period in excess of 5 years.

schriste

Maps and Plans

Analysis:

The results of the midterm review indicate that the State of Utah R645 requirements for compliance with the terms and conditions of the permit (R645-300-143) are being met.

Permittee initiated plan changes approved subsequent to permit renewal have been appropriately incorporated into the MRP. The MRP does not include any variances. However the permit does include one special permit condition under attachment A, BRC Wellington LLC will submit water quality data for the Wellington Dry Coal Cleaning Facility in an electronic format through the Electronic Data Input web site. This is done quarterly and is current.

jhelfric

Environmental Resource Information

Maps Vegetation Reference Area

Analysis:

The approved MRP does not meet the State of Utah R645 Requirements for Vegetation reference areas, R645- 301-323.

A reference area or other standard of success as approved by the Division has not been established for this site. Current site conditions noted on the February 8th site visit precluded the opportunity to establish a reference area or other standard of success. The assigned biologist will schedule a site visit during optimal conditions (prior to August 1, 2017) with the permittee and or their consultant to establish a reference area or other vegetative standard for success.

The permittee must provide a commitment to show the location and boundaries of the reference area for this facility on the the surface facilities map (Plate 5-1) as required for determining the success of revegetation by no later than August 1, 2017.

Deficiencies Details:

The approved MRP does not meet the State of Utah R645 Requirements for Vegetation reference areas, R645- 301-323.

A reference area or other standard of success as approved by the Division has not been established for this site. Current

site conditions noted on the February 8th site visit precluded the opportunity to establish a reference area or other standard of success. The assigned biologist will schedule a site visit during optimal conditions (prior to August 1, 2017) with the permittee and or their consultant to establish a reference area or other vegetative standard for success.

The permittee must provide a commitment to show the location and boundaries of the reference area for this facility on the the surface facilities map (Plate 5-1) as required for determining the success of revegetation by no later than August 1, 2017.

jhelfric

Operation Plan

Mining Operations and Facilities

Analysis:

The current MRP does not meet the State of Utah R645 requirements for Mining Operations and Facilities.

The current MRP does not meet the requirements of R645-301-523, -526, and 528 by not including an accurate description of the current operations at the site regarding the quantity of coal maintained on site, missing road details, and a laydown yard not described within the MRP. The MRP must detail the mining operation, method of coal mining, engineering techniques, anticipated annual and total production of coal by tonnage, and major equipment to be used for all aspects of those operations proposed to be conducted during the life of the operations. These details include the location of stockpiles, facilities, and equipment on site.

The processing of coal at the Wellington Dry coal operations meets the R645-100-200 definition of "Surface Coal Mining and Reclamation activities" as the operations described in Chapter 5 pages 5-2 of the Wellington MRP include the recovery of coal from a deposit that is not in its original geologic location. The narrative details coal cleaning surface facilities associated with the facility as shown on Plate 5-1. The site process includes receiving material from off-site clients that is generally considered coal mine waste. Prior to receipt within the permit area all material is evaluated to ensure that all accepted material may be processed. Material accepted includes high-quality coal fines and/or low quality (low BTU) coal. The MRP and Permittee maintain that none of the material processed or generated within the permit area is considered coal mine waste or coal processing waste. Due to the special nature of the surface mining operations occurring at Wellington Dry Coal the specialized material being received at the site, while seen as coal to the operator, would not be readily sellable in the event of the worst case scenario in bond forfeiture, defined in R645-301-830. To meet the R645-301-522, R645-301-542.800, and R645-301-830 regulations the Division requires the Permittee update the MRP and associated maps to show the locations of all stockpiles, regardless of coal/waste classification, and detail the maximum capacity of each stockpile within the MRP and reclamation bond estimate.

In addition, the Division believes there is sufficient evidence that the Permittee maintains more than the approved 1,500 tons of coal mine waste permanently at the site. The approved MRP states that any material that is off too poor a quality to be readily sold would be returned to original site. However , site inspections (as detailed in Inspection Reports 5764, 5621, and 5492) document that the Permittee maintains various quality coal piles at the site that have been processed and remain onsite for an extended period of time. These piles have been left in place and idle for long enough time periods for the piles to develop erosion rills. The Permittee must meet the R645-301-528 requirements and amend the MRP to detail operations to maintain refuse piles, detailed narrative of the quality and quantity of refuse within piles, and show locations with maximum capacity of refuse piles. The Permittee must also provide adequate quantities of waste for the Division to be able to determine the amount of additional reclamation bond required to reclaim said waste to meet R645-301-540 reclamation requirements.

Division GPS track from Inspection Report 5764 also show that the Permittee maintains an ancillary road in the southern portion of the property and an additional laydown yard with spare facility equipment in the southwest corner of the property that are not depicted on Plate 5-1. Per R645-301-512.120, R645-301-512.250, R645-301-521, R645-301-527 and R645-301-534 rules the Permittee must show all primary and ancillary roads on a plate, provide a supportive narrative, drawings and include all operational areas including laydown yards on a facility map.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Mining Operations and Facilities. The following deficiency must be addressed prior to final approval:

R645-301-512.120, R645-301-512.250, R645-301-521.170, R645-301-522, R645-301-523, R645-301-526, R645-301-528,

R645-301-540, R645-301-522, R645-301-542.800, and R645-301-830: the Division requires the Permittee update the MRP and associated maps to show the locations of all stockpiles, regardless of coal/waste classification, and detail the maximum capacity of each stockpile within the MRP and reclamation bond estimate.

R645-301-521.200, R645-301-521.170, R645-301-527 and R645-301-534: The Permittee will update Plate 5-1 to show the location of all piles currently at the site, all roads, and equipment storage areas within the Permit Area.

cparker

Existing Structures

Analysis:

The current MRP meets the State of Utah R645 requirements for Existing Structures.

The current MRP meets the requirements of R645-301-526 by providing historic information to include the discussion of the existing buildings in Chapter 5 page 5-8. Figure 5-1 details all building within 1,000 feet of the permit area as well as the current used of said buildings. Figure 5-2 shows the boundaries of the land owners. Only minor grading of the site has occurred from it pre-operations condition. Original site elevations across the facility dropped approximately 30 feet from north to south.

cparker

Relocation or Use of Public Roads

Analysis:

The current MRP meets the State of Utah R645 requirements for the Relocation or Use of Public Roads.

The current MRP meets the requirements of R645-301-521.133 due to information detailing measure to be used such as a general mining method that will be employed under or within 100 ft of public roads to protect interest of the public. No mining operations are proposed to occur within 100 ft of public roads.

cparker

Air Pollution Control Plan

Analysis:

The application is not in compliance with the Air Quality, R645-301-420.
MRP Section 4.2.3 cites coordination with the Division of Air Quality. Approval Order DAQE AN 2952003-05 was updated in June 2005 by adding equipment and coal production. Item #17 of the AO requires that in-plant haul roads shall be paved and shall be periodically swept or sprayed clean as dry conditions warrant. During an on site visit February 8, 2017, the in-plant haul roads were observed to be un-paved and covered with coal fines.

The MRP Section 4.2.3 states states an air quality monitoring program was not required at the time of Permitting. Since that time, production rates have increased and the updated DAQE-AN2952003-05 now allows for a 12 month rolling production of 1,500,000 tons. R645-301-423 requires that surface coal mining and reclamation activities with projected production rates exceeding 1,000,000 tons/year will contain an air pollution control plan. During the site visit on February 8, 2017, we observed that by-product stockpiles covered virtually the entire 20 acre site. The Permittee must develop an air quality monitoring program (R645-301-423.100) and a plan for fugitive dust control practices (R645-301-423.200).

Deficiencies Details:

The application is not in compliance with the Air Quality.

1. In accordance with R645-301-422, the Permittee must either asphalt the in-plant haul roads and clear coal fines from the in plant roads or provide further correspondence with the Division of Air Quality allowing authorization to continue operations with unpaved roads.

2. In accordance with R645-301-423, The Permittee must develop an air quality monitoring program (R645-301-423.100) and a plan for fugitive dust control practices (R645-301-423.200) for the site.

Coal Recovery

Analysis:

The current MRP does not meet the State of Utah R645 requirements for Coal Recovery.

The current MRP does not meet the requirements of R645-301-522 due to a discussion of the measures to be used to maximize the use and conservation of the coal resources that was last updated in September 2008. Plate 5-1 shows the coal stockpiles at the site as of September 2008. All mines provide updated five year plans of expected tonnage and production to the Division for assessing R645-301-522 and R645-301-523. The MRP narrative states that the size of the piles may change from time to time but the location of stock piles is consistent throughout time, however, there are several piles not clearly detailed on Plate 5-1 that the Permittee must demonstrate the approximately 140,485CY of waste witnessed at the site, see Inspection Report #5764, piles are not coal mine waste. These piles have been left in place and idle for long enough time periods for the piles to develop erosion rills. The Permittee must meet the R645-301-528 requirements and amend the MRP to detail operations to maintain refuse piles, detailed narrative of the quality and quantity of refuse within piles, and show locations with maximum capacity of refuse piles. The Permittee must also provide adequate quantities of waste for the Division to be able to determine the amount of additional reclamation bond required to reclaim said waste to meet R645-301-540 reclamation requirements.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Coal Recovery. The following deficiency must be addressed prior to final approval:

R645-301-512.120, R645-301-512.250, R645-301-521.170, R645-301-522, R645-301-523, R645-301-526, R645-301-528, R645-301-540, R645-301-522, R645-301-542.800, and R645-301-830: the Division requires the Permittee update the MRP and associated maps to show the locations of all stockpiles, regardless of coal/waste classification, and detail the maximum capacity of each stockpile within the MRP and reclamation bond estimate.

cparker

Topsoil and Subsoil

Analysis:

The Permittee has not met the requirements of soil salvage timing, R645-301-232.600.

During an on site visit 2/8/2017, a small triangle of unrecovered topsoil (0.25 ac) was noted on the East side of the property between two ditches reporting to the East pond. Salvage of six inches of soil from this 0.2 acre area could generate 160 CY of topsoil. This is a small amount of topsoil, but there is very minimal soil salvaged at the site and it could easily be collected during maintenance work on the adjacent ditches this spring.

This soil should be recovered and added to smaller topsoil stockpile, presently holding 302 CY. At the same time, the smaller soil stockpile should be reduced in height and side slopes reduced to 2h:1v and surface roughened. The smaller stockpile should be reseeded at that time with forage kochia (Bassia prostrata) at 1 lbs/ac and Alkali sacaton at 1 lbs/ac. Please report site conditions during seeding, photographs of the seeding and the seed tag to the Division.

Alkali sacaton is a component of the Table 3 seed mix. Forage kochia is not a component of the seed mix, but is recommended due to its adaptation to clay soils and drought conditions.

The Section 2.3.1.4 describes the storage of approximately 1,302 cu yds of topsoil in two stockpiles at the site. Stockpile locations are shown on Plate 5-1.

The largest stockpile adjacent to the sediment pond in the southwest corner of the site is eliptical in shape with side slopes at angle of repose and an approximate height of 10 ft It's as-built volume is1,000 yd3.

The smaller pile is a circular shape with side slopes at an angle of repose and an approximate height of 8 feet. It's as-built volume of 302 yd3.

The stockpiles were observed during a site visit on February 8, 2017. Both stockpiles were bermed. Snow cover limited the

evaluation of vegetative cover. A return site visit in spring 2017 is recommended.

Deficiencies Details:

The Permittee has not met the requirements of soil salvage.

In accordance with R645-301-232.600, the Permittee will recover six inches of topsoil from a small triangle of unrecovered topsoil (0.2 acres) on the East side of the property between two ditches reporting to the East pond. This soil should be added to smaller topsoil stockpile, presently holding 302 CY. At the same time, the smaller soil stockpile should be reduced in height and side slopes reduced to 2h:1v and surface roughened. The smaller stockpile should then be reseeded with forage kochia (Bassia prostrata) at 1 lbs/ac and Alkali sacaton at 1 lbs/ac. Please report site conditions during seeding, photographs of the seeding and the seed tag to the Division.

pburton

Road Systems Classification

Analysis:

The current MRP does not meet the State of Utah R645 requirements for Road Systems and Other Transportation Facilities.

The current MRP does not meet the requirements of R645-301-527.100 by failing to classify each road as primary or ancillary. Per the Divisions inspection #5764, Division staff witnessed a road that is not detailed on Plate 5-1. Plate 5-1 must show the location of all roads, ancillary and primary within the Permit Are. Narrative states that primary roads vary from 12 to 40 feet within the permit area and maintain a gradient of general 1 to 2%.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Road Classification System. The following deficiency must be addressed prior to final approval:

R645-301-521.170, R645-301-527, 645-301-534.300: The Permittee will add the missing road to Plate 5-1 and classify the road as either ancillary or primary according to R645-301-527 regulations.

cparker

Road System Plans and Drawings

Analysis:

The current MRP does not meet the State of Utah R645 requirements for Transportation Plans and Drawings.

The current MRP does not meet the requirements of R645-301-512.250, R645-301-527, and R645-301-534.100 by not submitting detailed professional engineering approved plans and drawing for each primary road to be maintained within the permit area. Figure 5-3 only shows the typical road design and Plate 5-1 shows the plan view location of all roads. Appendix 5-1 simply contains a letter from a Utah PE stating that the road drainage is controlled but does not contain any design details for any of the roads. R645-301-512.250, R645-301-527.200 and R645-301-534.300 require detailed appropriate cross sections certified by a professional engineer for primary roads. The Permittee shall provide the additional information required for Primary roads including a detailed narrative of use of each Primary road and cross section plans.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Road Plans and Drawings. The following deficiency must be addressed prior to final approval:

R645-301-512.250, R645-301-521.170, R645-301-527, 645-301-534.300 The Permittee shall provide the additional information required for Primary roads including a detailed narrative of use of each Primary road and cross section plans.

cparker

Road System Performance Standards

Analysis:

The current MRP meets the State of Utah R645 requirements for Performance Standards of roads within the permit area.

The current MRP meets the requirements of R645-301-534.150 by submitting plans and drawing for each road to be maintained within the permit area to prevent and control erosion mine. All roads graded to maintain proper drainage and are cover with 2 inch material that has been compacted in place.

cparker

Road System Certification

Analysis:

The current MRP does not meet the State of Utah R645 requirements for Primary Road Certification

The current MRP does not meet the requirements of R645-301-512.250 , R645-301-521.170, and R645-301-534.300 by not submitting plans and drawing for each road to be prepared by or under the direction of and certified by a qualified registered professional engineer. Appendix 5-1 does not contain any of the required primary road calculations and professional engineer approved drawings required for certification. The MRP details that there are six segments of primary road: access road, loop road, scale road, scale bypass road, dump bin road, and loading silo road. R645-301-527.200 and R645-301-534.300 require detailed appropriate cross sections. The Permittee shall provide the additional information required for Primary roads including a detailed narrative of use of each Primary road and cross section plans.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Primary Road Certification. The following deficiency must be addressed prior to final approval:

R645-301-512.250, R645-301-521.170, R645-301-527, 645-301-534.300 The Permittee shall provide the additional detailed Information required for Primary roads including a detailed narrative of use of each Primary road and professional engineer stamped plan and cross section plans for all primary roads.

cparker

Road System Other Transportation Facilities

Analysis:

The current MRP meets the State of Utah R645 requirements for Other Transportation Facilities.

The current MRP meets the requirements of R645-301-521.170 by submitting plans and drawing for each road, conveyor, and rail system to be used within the proposed permit area. All conveyors in the permit area are show on Plate 5-1.

cparker

Hydrologic Ground Water Monitoring

Analysis:

This section of the MRP does not meet the State of Utah R645 requirements for Groundwater Monitoring, R645-301-731.200.

Expansion of the site for high ash coal storage resulted in Approximately 40% of the current disturbed area being located below or down gradient from the groundwater monitoring well (MW-1) shown on figure 7-2 of chapter 7. Continued monitoring from this well would not detect any potential impacts from the down gradient portion of mining operations.

The permittee must submit a revised groundwater monitoring plan for this facility.

Deficiencies Details:

This section of the MRP does not meet the State of Utah R645 requirements for Groundwater Monitoring, R645-301-731.200.

Expansion of the site for high ash coal storage resulted in Approximately 40% of the current disturbed area being located below or down gradient from the groundwater monitoring well (MW-1) shown on figure 7-2 of chapter 7. Continued monitoring from this well would not detect any potential impacts from the down gradient portion of mining operations.

The permittee must submit a revised groundwater monitoring plan for this facility.

jhelfric

Hydrologic Acid and Toxic forming Materials

Analysis:

The application is not in compliance with Acid-Toxic Forming Materials, R645-301-731.300.

The MRP states that coal that is cleaned in the permit area is only temporarily stored at the facility (p. 5-16) and that coal that remains on site after 30 days will be sampled (p. 7-14). During an on site visit on February 8, 2017, it was apparent that two large stockpiles in the South coal stockpile area, one high ash coarse and one high ash fines, covering approximately 5 acres, had been on site longer than 30 days. The high ash fine stockpile is shown on pg 11 of Insp Rpt 5492, April 6, 2016. The high ash coarse pile is shown on pg. 19 of Insp Rpt #5643, 9/16/2016; pgs 8 and 13 of Insp Rpt #5658, 10/5/2016; and page 10 of Inspection report #5684, 11/02/2016. These stockpiles, one high ash coarse and one high ash fines, must be sampled in accordance with the MRP commitment provided in Section 7.3.1.3. on p. 7-14.

Deficiencies Details:

The application is not in compliance with Acid-Toxic Forming Materials.

In accordance with R645-301-731.311, Two stockpiles in the South coal stockpile area, one high ash coarse and one high ash fines, covering approximately 5 acres must be sampled in accordance with the MRP commitment provided in Section 7.3.1.3. on p. 7-14.

pburton

Hydrologic Sediment Control Measures

Analysis:

The approved MRP meets the State of Utah R645 requirements for Sediment Control Measures.

The sediment control measures have been designed to prevent additional contributions of sediment to streams or to runoff outside the permit area, applicable effluent limitations and minimize erosion to the extent possible. The structures used to control sediment transport at the site include diversion channels, sedimentation ponds, containment berms, silt fences and road diversions and culverts.

The site utilizes two sediment ponds that work individually. The ponds respectively accept runoff from the eastern and western portions of the disturbed area. The ponds have been designed to completely contain the 10-year, 24-hour storm event. The spillways were designed to adequately pass the peak flow resulting from the 25-year, 6-hour precipitation event. Each of the sediment ponds is equipped with a riprap armored spillway (D50 = 40 inches).

Plate 7-2, Site Watershed and Drainage Map Wellington Dry Coal Cleaning Facility depicts the drainage system utilized at the site as well as the watershed boundaries utilized in sizing the various components of the drainage system. Appendix 7-2 provides the hydrologic calculations for the drainage channels and associated culverts. Table 7-2 provides a summary of the drainage ditch and culvert data.

schriste

Support Facilites and Utility Installations

Analysis:

The current MRP does not meet the State of Utah R645 requirements for Support Facilities and Utility Installations.

The current MRP does not meet the requirements of R645-301-521.180 and -526 the require the description, plans, and drawing for each support facility that was constructed, used, and maintained within the permit area in Chapter 5 and locations seen on Plate 5-1. Table 5-1 contains a list of the structures within the permit area. Per the Division's inspection, Inspection Report # 5764, Plate 5-1 does not contain up to date pile locations for piles maintained on site, a southern ancillary road . The Permittee must provide update information for all piles and sufficient evidence for the Division to determine that the Permittee maintains less than 15,000 CY of coal mine waste at the site.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Support Facilities and utility Installations. The following deficiency must be addressed prior to final approval:

R645-301-521.166, R645-301-521.200, R645-301-521.170, R645-301-527 and R645-301-534: The Permittee will update Plate 5-1 to show the location of all piles currently at the site, all roads, and equipment storage areas within the Permit Area.

cparker

Signs and Markers

Analysis:

The current MRP meets the State of Utah R645 requirements for Signs and Markers.

The current MRP meets the requirements of R645-301-521.200 by the general discussion of signs including waring, stream buffer and perimeter signs in Chapter 5 Page 5-10

cparker

Maps Facilities

Analysis:

The current MRP does not meet the State of Utah R645 requirements Mining Facilities Maps.

The current MRP does not meet the requirements of R645-301-521.120 through-521.125 which require maps to clearly show existing surface and subsurface facilities. The historic location of all support mining facilities is shown on Plate 5-1. The Permittee must provide updated locations of coal piles and coal mine waste piles.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for Mining Facilities Maps. The following deficiency must be addressed prior to final approval:

R645-301-521.166, R645-301-521.200, R645-301-521.170, R645-301-527 and R645-301-534: The Permittee will update Plate 5-1 to show the location of all piles currently at the site, all roads, and equipment storage areas within the Permit Area.

cparker

Reclamation Plan

General Requirements

Analysis:

The current MRP does not meet the State of Utah R645 requirements for Reclamation Activities.

The current MRP does not meet the requirements of R645-301-523, -526, and 528 by not including an accurate description of the current operations at the site regarding the quantity of coal maintained on site, missing road details, and a laydown yard not described within the MRP. The MRP must detail the mining operation, method of coal mining, engineering techniques, anticipated annual and total production of coal by tonnage, and major equipment to be used for all aspects of those operations proposed to be conducted during the life of the operations. These details include the location of stockpiles, facilities, and equipment on site.

The processing of coal at the Wellington Dry coal operations meets the R645-100-200 definition of "Surface Coal Mining and Reclamation activities" as the operations described in Chapter 5 pages 5-2 of the Wellington MRP include the recovery of coal from a deposit that is not in its original geologic location. The narrative details coal cleaning surface facilities associated with the facility as shown on Plate 5-1. The site process includes receiving material from off-site clients that is generally considered coal mine waste. Prior to receipt within the permit area all material is evaluated to ensure that all accepted material may be processed. Material accepted includes high-quality coal fines and/or low quality (low BTU) coal. The MRP and Permittee maintain that none of the material processed or generated within the permit area is considered coal mine waste or coal processing waste. Due to the special nature of the surface mining operations occurring at Wellington Dry Coal the specialized material being received at the site, while seen as coal to the operator, would not be readily sellable

in the event of the worst case scenario in bond forfeiture, defined in R645-301-830. To meet the R645-301-522, R645-301-542.800, and R645-301-830 regulations the Division requires the Permittee update the MRP and associated maps to show the locations of all stockpiles, regardless of coal/waste classification, and detail the maximum capacity of each stockpile within the MRP and reclamation bond estimate.

In addition, the Division believes there is sufficient evidence that the Permittee maintains more than the approved 1,500 tons of coal mine waste permanently at the site. The approved MRP states that any material that is off too poor a quality to be readily sold would be returned to original site. However, site inspections (as detailed in Inspection Reports 5764, 5621, and 5492) document that the Permittee maintains various quality coal piles at the site that have been processed and remain onsite for an extended period of time. These piles have been left in place and idle for long enough time periods for the piles to develop erosion rills. The Permittee must meet the R645-301-528 requirements and amend the MRP to detail operations to maintain refuse piles, detailed narrative of the quality and quantity of refuse within piles, and show locations with maximum capacity of refuse piles. The Permittee must also provide adequate quantities of waste for the Division to be able to determine the amount of additional reclamation bond required to reclaim said waste to meet R645-301-540 reclamation requirements.

The MRP maintains that the reclamation of the site includes the reclamation of the area to a higher and better post operations industrial land use consistent with the zoning of the site and adjacent area. All coal product piles will be clean up to a reasonable level and the site will be graded to the extent required by the future land-owner. Permanent structures will be removed and no physical hazards will be left in place. Approximately 9.7 acres south of the facility loo road will be revegetation as noted on Plate 5-2. A timetable for each step of reclamation is presented in Table 5-2. The sediment ponds will be left in place for the future landowner as well as the septic system, roads, loadout, and perimeter fence. The Permittee must include updated reclamation costs to show the removal of all features associated with the current mining operations regardless of the post mining land use.

Deficiencies Details:

The application does not meet the State of Utah R645 requirements for General Reclamation Plan. The following deficiency must be addressed prior to final approval:

R645-301-521.166, R645-301-512.120, R645-301-512.250, R645-301-521.170, R645-301-522, R645-301-523, R645-301-526, R645-301-528, R645-301-540, R645-301-522, R645-301-542.800, and R645-301-830: the Division requires the Permittee update the MRP and associated maps to show the locations of all stockpiles, regardless of coal/waste classification, and detail the maximum capacity of each stockpile within the MRP and reclamation bond estimate. The Permittee must include updated reclamation costs to show the removal of all features associated with the current mining operations regardless of the post mining land use.

cparker

Approximate Original Contour Restoration

Analysis:

The current MRP meets the State of Utah R645 requirements for Approximate Original Contour Restoration.

The current MRP meets the requirements R645-301-512.200 ,-553.110 through -553.150, and -302-270 due to general grading plant that restores approximate original contour (AOC) in general detail within Chapter 5.

AOC as defined by R645-301-553.100 through -553.150 is achieved when the final grade closely resembles the general surface configuration of the land prior to mining activities and provides a subsurface foundation for vegetative cover capable of stabilizing the surface from erosion.

cparker

Road System Retention

Analysis:

The current MRP meets the State of Utah R645 requirements for Reclamation of Roads.

The requirements of R645-301-534 are met within the current MRP as there is no change to the existing MRP to include the retention of all roads throughout the permitted area.

cparker

Revegetation Standards for Success

Analysis:

The approved MRP does not meet the State of Utah R645 requirements for revegetation standards for success, R645-301-356.

Site conditions noted during the site visit on February 8th were not conducive to establishing standards for reclamation success for this facility. The assigned biologist will schedule a site visit during optimal conditions (prior to August 1, 2017) with the permittee and or their consultant to establish these standards.

The permittee needs to provide a commitment to update Chapter 3, Page 3-12 (Measures Proposed for Revegetation Success) of the MRP to include revegetation success standards by no later than August 1, 2017.

It is noted in section R645-301-365.200 that: Standards for success shall be applied in accordance with the approved postmining land use and, at a minimum, the following conditions as referenced in:

R645-301-356.240: For areas to be developed for industrial, commercial, or residential use less than 2 years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and or;

R645-301-356.250:For areas previously disturbed by mining that were not reclaimed to the requirements of the performance standards and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion.

Plate 5-2 needs to be updated to include the revegetation of the disturbed areas within the permit area as well as the text in Chapter 3, page 3-14, Section 3.5.3.

Deficiencies Details:

The approved MRP does not meet the State of Utah R645 requirements for revegetation standards for success, R645-301-356.

Site conditions noted during the site visit on February 8th were not conducive to establishing standards for reclamation success for this facility. The assigned biologist will schedule a site visit during optimal conditions (prior to August 1, 2017) with the permittee and or their consultant to establish these standards.

The permittee needs to provide a commitment to update Chapter 3, Page 3-12 (Measures Proposed for Revegetation Success) of the MRP to include revegetation success standards by no later than August 1, 2017.

It is noted in section R645-301-365.200 that: Standards for success shall be applied in accordance with the approved postmining land use and, at a minimum, the following conditions as referenced in :

R645-301-356.240: For areas to be developed for industrial, commercial, or residential use less than 2 years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and or;

R645-301-356.250: For areas previously disturbed by mining that were not reclaimed to the requirements of the performance standards and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion.

Plate 5-2 needs to be updated to include the revegetation of the disturbed areas within the permit area as well as the text in Chapter 3, page 3-14, Section 3.5.3.

jhelfric

Maps Reclamation BackFilling and Grading

Analysis:

The current MRP meets the State of Utah R645 requirements for Reclamation Backfilling and Grading Maps.

The requirements of R645-301-542 are met within the current MRP as there is no change to the existing MRP plan of backfilling and grading areas or volumes on Plate 5-2.

cparker

Maps Reclamation Facilities

Analysis:

The current MRP meets the State of Utah R645 requirements for Reclamation Facilities Maps

The requirements of R645-301-542 are met within the current MRP as there is no change to the existing MRP plan of facilities that will remain post mining operations as shown on Plate 5-2.

cparker

Bonding and Insurance General

Analysis:

The approved MRP does not meet the State of Utah R645 requirements for Bonding and Insurance.

In Appendix 8-2 of the MRP, the Permittee provides a Certificate of Liability Insurance. Upon review of the certificate, the coverage expired on February 5th, 2014. The Permittee must revise Appendix 8-2 of the MRP with the up to date Certificate of Liability Insurance as it shows that it expired on February 5th, 2014.

Deficiencies Details:

The approved MRP does not meet the State of Utah R645 requirements for Bonding and Insurance. The following deficiency must be addressed:

R645-301-890: The Permittee must revise Appendix 8-2 of the MRP with the up to date Certificate of Liability Insurance as it shows that it expired on February 5th, 2014.

schriste

Bonding and Insurance General

Analysis:

The approved MRP does not meet the State of Utah R645 requirements for Bonding and Insurance.

In Appendix 8-2 of the MRP, the Permittee provides a Certificate of Liability Insurance. Upon review of the certificate, the coverage expired on February 5th, 2014. The Permittee must revise Appendix 8-2 of the MRP with the up to date Certificate of Liability Insurance as it shows that it expired on February 5th, 2014.

Deficiencies Details:

The approved MRP does not meet the State of Utah R645 requirements for Bonding and Insurance. The following deficiency must be addressed:

R645-301-890: The Permittee must revise Appendix 8-2 of the MRP with the up to date Certificate of Liability Insurance as it shows that it expired on February 5th, 2014.

schriste

Bonding Determination of Amount

Analysis:

The midterm review of the MRP does not meet the State of Utah R645 requirements for Determination of Bond Amount because no updated midterm bonding estimates have been provided by the Permittee.

The Division requires an evaluation of the reclamation cost estimate during each midterm permit review. This cost estimate is then escalated for five years or until the next midterm review. In accordance with the requirements of R645-303-211, R645-301-830, and -301-830.140, it is the Permittees responsibility to provide detailed estimated cost sheets to support the

reclamation cost estimate.

Deficiencies Details:

The midterm review of the MRP does not meet the minimum requirements of R645-301-830.140 due to missing information as the Permittee has not submitted updated bond information in regards to the midterm review of the MRP.

The Permittee must update the unit cost data used in the 2011 Midterm Permit Review reclamation cost estimate to 2016 unit costs using the 2016 R.S. Means Heavy Construction Cost Data manual. All computation sheets for demolition of all buildings and specialized materials, earthwork and re-vegetation must be updated and submitted to the Division so the Division can determine the required bond amount needed through 2021. These updated cost sheets must include all ponds, lay-down yards, roads, stockpile areas, etc... including volume, quantity, and total area for demolition (and removal), earthwork and re-vegetation for total capacity of the mine.

In accordance with R645-301-830.410, Division Technical Directive 007, and Office of Surface Mining Handbook for Calculation of Reclamation Bond Amounts the Permittee may utilize third party contractors for cost references when a general cost references does not adequately describe the required reclamation task (including removal of any specialized material). In the event the Permittee utilizes local third party contractors cost estimates within the reclamation bond amount additional information must be submitted with the application including a minimum of three individual quotes for the work. References may include items such as a letter or email transcript but must include all relevant contact information from the contractor so that the Division may contact said contractor to verify unit cost is valid in the event the Division was the hiring personal. References must be submitted at the time the reclamation bond amount is submitted to the Division. The Permittee will submit detailed cost references for all contracted costs of reclamation.

In accordance with R645-301-830.410, Division Technical Directive 007, and Office of Surface Mining Handbook for Calculation of Reclamation Bond Amounts the Permittee must utilize bare unit costs when using standardized cost reference manuals such as R.S. Means Heavy Construction. The Division applies an indirect cost of 26.8% that covers overhead and profit calculations in the indirect line items of the total sheet. The Permittee will utilize the bare unit cost when utilizing R.S. Means Heavy Construction cost reference.

The Wellington Dry-Coal Cleaning Facility review, in accordance with R645-303-211, was commenced on December 1, 2016 by the Division. In accordance with R645-301-830.410, Division Technical Directive 007, and Office of Surface Mining Handbook for Calculation of Reclamation Bond Amounts the Permittee must utilize the dollar year for which the midterm was commenced. The escalation to the next midterm must also be amended to calculate the new escalation to the next midterm review, five years.

The total reclamation cost for the Wellington Dry-Coal Cleaning Facility (sum of the direct and indirect costs) must be escalated from 2016 to 2021 (5 years) using an escalation factor of .7%.

This escalated cost is rounded to the nearest $ 1,000 to determine the amount of required bond which must be posted with the Division by the Permittee.

bwiser