



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

February 27, 2018

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

Subject: Midterm Completion Response, BRC Wellington, LLC, Wellington Dry-Coal
Cleaning Facility, C/007/0045, Task #5595

Dear Mr. Edwards:

The Division has reviewed your application. 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 deficiencies authors are identified so that your staff can communicate directly with that individual should questions arise. The plans as submitted are denied. Please resubmit the entire application by no later than March 30, 2018.

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

Sincerely,

Daron R. Haddock
Coal Program Manager

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Technical Analysis and Findings

Utah Coal Regulatory Program

PID: C0070045
TaskID: 5595
Mine Name: WELLINGTON DRY-COAL CLEANING FACILITY
Title: MIDTERM COMPLETION RESPONSE

General Contents

Violation Information

Analysis:

The amendment meets the State of Utah R645 requirements for Violation Information.

The previous technical review (Task ID #5316) identified a deficiency relative to the Violation Information provided in Section 1.1.3. Previous technical reviews had directed the Permittee to revise the Violation Information. The Permittee has revised the text on page 1-7 to reflect enforcement actions that have been initiated to Bowie Refined Coal, LLC. Additionally, the Permittee has proposed the addition of Appendix 1-6, April 2017 AVS Printout.

Technical review, Task ID # 5487 identified a deficiency relative to the Violation Information text provided in the amendment. The second to last sentence of the revised text in Section 1.1.3 stated, "It is BRCW's position that the Cessation Orders should not affect the status of the DOGM permit for the Wellington facility during the midterm review". The Division acknowledged that this statement reflects the position of the Permittee; however, it was deemed inappropriate for such statements to be included within the Mining and Reclamation Plan (MRP). The Division is the identified regulatory authority under SMCRA in the State of Utah. It follows, that it is the Divisions discretion as to when outstanding cessation orders rise to the level of a permit block in the State of Utah. The Permittee was directed to delete this sentence.

Upon review of the amendment, the Permittee has deleted the 2nd to last sentence of Section 1.1.3 on page 1-7.

schriste

Permit Application Format and Contents

Analysis:

The amendment does not meet the State of Utah R645 requirements for Permit Application Format and Contents.

The Utah Coal Regulatory Program Submittals Format Guide requires that proposed revisions to the amendment be submitted in redline/strikeout format. Upon review of the most recently submitted Midterm Review Response (Task ID #5595), it was noted that there were numerous sections where previously proposed permit revisions (Task ID #5487) were not provided in redline/strikeout format.

For example in Section 5.2.2- Coal Recovery, an entire paragraph revision, that was submitted per Task #5487, was not shown as being a proposed revision (i.e. in redline/strikeout format). In section 5.2.3- Mining Methods, a significant revision to this section submitted the previous round (Task #5487) was not identified by redline/strikeout.

The Permittee must submit proposed revisions to the approved Mining and Reclamation Plan (MRP) per the requirements of the Utah Coal Regulatory Program- Submittals Format Guide. The Submittals Format Guide requires that revisions be submitted in redline/strikeout format. The redline/strikeout format requirement applies to previously proposed revisions/iterations. MRP Revisions proposed by the Permittee in the previous task (#5487) were not provided in redline/strikeout format. In order to facilitate the review of the proposed changes to the MRP, the Permittee must submit all proposed revisions in redline/strikeout format, including revisions submitted under prior tasks.

Deficiencies Details:

The amendment does not meet the State of Utah R645 requirements for Permit Application Format and Contents. The following deficiency must be addressed prior to final approval:

R645-301-121.300: The Permittee must submit proposed revisions to the approved Mining and Reclamation Plan (MRP) per the requirements of the Utah Coal Regulatory Program- Submittals Format Guide. The Submittals Format Guide requires that revisions be submitted in redline/strikeout format. The redline/strikeout format requirement applies to previously proposed revisions/iterations. MRP Revisions proposed by the Permittee in the previous task (#5487) were not provided in redline/strikeout format. In order to facilitate the review of the proposed changes to the MRP, the Permittee must submit all proposed revisions in redline/strikeout format, including revisions submitted under prior tasks.

schriste

Environmental Resource Information

Maps Vegetation Reference Area

Analysis:

The approved MRP does not meet the State of Utah R645 Requirements for Vegetation reference areas at R645-301-323 and 323.100. A reference area or other standard of success as approved by the Division needs to be 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 DOGM biologist (Joe Helfrich) and WDC's consultant (Patrick Collins) conducted a site visit on October 5th, 2017 to select a reference area or other vegetative standard for comparing reclamation success. A winterfat, (*Krascheninnikovia lanata*), vegetative community was selected approximately 2 miles east of the WDC facility. Permission to use the School and Institutional Trust Land (SITLA) property as a reference area was granted by "E" mail from Scott Bartlett (SITLA Resource Specialist) on 10/31/2017. The permittee will need to amend their current Mining & Reclamation Plan (MRP) to show the location, (GPS coordinates), and boundaries of the reference area for this facility on the current surface facilities map (Plate 5-1) or additional mapping as needed. The permittee will need to update Chapter 3, Page 3-12 (Measures Proposed for Revegetation Success) of the MRP to include revegetation success standards. The permittee will also need to provide a commitment to collect base line data from the proposed reference area during the growing season of 2018.

Deficiencies Details:

The approved MRP does not meet the State of Utah R645 Requirements for Vegetation reference areas, R645- 301-323 and 323.100. A reference area or other standard of success as approved by the Division needs to be 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 DOGM biologist (Joe Helfrich) and WDC's consultant (Patrick Collins) conducted a site visit on October 5th, 2017 to select a reference area or other vegetative standard for comparing reclamation success. A winterfat, (*Krascheninnikovia lanata*), vegetative community was selected approximately 2 miles east of the WDC facility. Permission to use the School and Institutional Trust Land (SITLA) property as a reference area was granted by "E" mail from Scott Bartlett (SITLA Resource Specialist) on 10/31/2017. The permittee will need to amend their current Mining & Reclamation Plan (MRP) to show the location, (GPS coordinates), and boundaries of the reference area for this facility on the current surface facilities map (Plate 5-1) or additional mapping as needed. The permittee will need to update Chapter 3, Page 3-12 (Measures Proposed for Revegetation Success) of the MRP to include revegetation success standards. The permittee will also need to provide a commitment to collect base line data from the proposed reference area during the growing season of 2018.

jhelfric

Operation Plan

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.

An adjustment to the Air Quality Approval Order is proposed for the unpaved section of the North loop road (Section 5.2.7.2, p. 5-15). The C1C2 form indicates that supplemental information is being added to Appendix 4-2, DAQ Approval Order. However, Appendix 4-2 Utah DAQ Approval Order is an empty appendix. A cover page from an NOI filed 12/17/2017 with DAQ is provided as Appendix 5-1 Road Certification.

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 5.2.1.1 (p. 5-10) states, "The surface of the Middle and South loop roads consists of crushed coal. The Middle Loop road is open only when the location is not occupied by coal piles." Drawing 5-1 (dated 10/12/2017) shows the Middle Loop of the primary road haul loop used by haul trucks as an ancillary road and statements in Section 5.2.7.1 suggests that the Middle Loop is not used to haul coal (p. 5-14). This statement is contrary to the Division's observations during inspections (personal communication with Steve Demczak, 2/19/2018).

A second issues was resolved as described below.

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. Section 5.2.3, p. 5-12 states that coal processing capability is 2,500 tons/day, but depends upon client requests. Consequently, the rolling production rate for the previous 12 months will determine whether the operation is required to develop an air quality monitoring program (R645-301-423.100) and a plan for fugitive dust control practices (R645-301-423.200). MRP Section 5.2.3 states that the plant processed 252,167 tons of coal. Section 5.2.3 (p. 5-12) also states that the rolling production rate for the previous 12 months will be included in the annual report.

The quantity of coal stored on site during the December 2016 survey was 88,538 tons (Section 5.5.3.2, p. 5-28). During the site visit on February 8, 2017, we observed that by-product stockpiles covered virtually the entire 20 acre site. The reclamation plan for this 'residual' coal is to haul it to the Savage Coal Terminal (Section 5.5.3.2 (p. 5-29).

Deficiencies Details:

The application does not meet the R645-301-422 requirements. The following deficiency must be addressed prior to final approval:

R645-301-422,

1. A description of the coordination and compliance efforts (the NOI) provided to DEQ is requested.
2. A copy of the revised Air Quality Approval Order is requested upon receipt.

pburton

Topsoil and Subsoil

Analysis:

The Permittee has met the requirements of soil identification, R645-301-232.200, because Plate 5-1 identifies undisturbed, in-situ topsoil. The locations have been marked (Section 5.2.1.2, p. 5-11). Protection of this resource in place was agreed to be preferable to stockpiling, given the poor results from seeding the existing topsoil piles (personal communication during the inspection, 5/3/2017).

The plan states that over 500 CY of topsoil exists in the marked areas (p. 2-5). This is inaccurate. In fact the East side in-situ topsoil (0.637 acres) would provide over 513 CY and a similar volume would be expected from the West side of the property. The West side in-situ topsoil extends further than shown on Plate 5-1, all the way to the North end of the property. Future reclamation plan revisions should describe the utilization of both East and West in-situ topsoil.

During an on site visit 5/3/2017, a 0.637 acre area of unrecovered topsoil was sampled for analysis. This area is shown on Dwg 5-1 on the East side of the property between two ditches reporting to the East pond and extending eastward to the boundary fence (the former location of the topsoil storage pile). In this area, the surface six inches, which also had numerous roots, is topsoil. Soil sampling of this location is described in Inspection Report 5840 and photographs taken on the sampling date were filed under 5032017. The results from the sampling were received on June 14, 2017 and forwarded to Kyle Edwards with the following comment: Below 6 inches, the analysis indicates that there is an increase in salinity, pH and accumulation of calcium, which was noted as streaks of gypsum. The sampling Salvage of six inches of soil from this 0.637 acre area will generate 513 CY of topsoil.

Undisturbed topsoil is also located along the West fenceline. The area is signed as in situ topsoil storage. Adjacent to this in-situ topsoil there is a supply yard. Plate 5-1 confines the supply storage to a small area. To date, the supply yard has not affected the soil with oil or grease or traffic.

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 stockpiles were observed during a site visit on May 3, 2017.

pburton

Road Systems Classification

Analysis:

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

Plate 5-1 and narrative in section 5.2.7.1 addresses the classification of all roads on the permit area. All of the roads on site are classified as primary roads with the exception of the South Loop Road and the Middle Loop Road, which are classified as ancillary roads. The Division accepts this convention everywhere except in the case of the Middle Loop Road, which connects the Dump Bin Road on the east of the property to the West Loop Road on the west. Both the Dump Bin and the West Loop Roads are primary roads, and logically it follows that the Middle Loop Road that connects them must also be a primary road.

Utah code R645-301-527.121 and R645-301-527.122 further specifies that a primary road is one that is used to transport coal and/or frequently used for access or other purposes for a period of six months. If the Dump Bin Road is used regularly over a six month period, then the Middle Loop Road is also in use during that time, which qualifies it as a primary road. If this is not the case, the Permittee must designate on Plate 5-1 the primary road that offloading coal trucks are using to exit the site.

Deficiencies Details:

R645-301-527.121 and R645-301-527.122 - Permittee must reclassify the Middle Loop Road on Plate 5-1 as a primary road. If the usage of this road does not qualify it as a primary road, then Permittee must indicate what other road is being used by offloading coal trucks to exit the site after dumping coal at the dump bin.

jeatchel

Hydrologic Acid and Toxic forming Materials

Analysis:

The application meets the requirements of Acid-Toxic Forming Materials, R645-301-731.300. The MRP states that the volume of coal stored at the facility is dependent upon client decisions (p. 5-16). Coal that remains on site 30 days after the site has been inactive, will be sampled (Section 7.3.1.3 p. 7-15). This approach meets the requirements of R645-301-731.311 (identification of acid/toxic forming materials).

pburton

Reclamation Plan

General Requirements

Analysis:

The current MRP does not meet the State of Utah R645 requirements for the reclamation of the Wellington Dry Coal

facility (WDC) at R645-301-200, 300, 500, and 700 et sec. The reclamation plan in the current MRP needs to be revised to include reclamation of the processing material at the WDC facility which may also be subject to the requirements of R645-302-262 and 302-264.300. The redline and redline strikeout text on pages 5-23 and 5-24 needs to be deleted. The text in Chapter 3, page 3-14, Section 3.5.3.

Deficiencies Details:

The current MRP does not meet the State of Utah R645 requirements for the reclamation of the Wellington Dry Coal facility (WDC) at R645-301-200, 300, 500, and 700 et sec. The reclamation plan in the current MRP needs to be revised to include reclamation of the processing material at the WDC facility which may also be subject to the requirements of R645-302-262 and 302-264.300. The text in Chapter 3, page 3-14, Section 3.5.3. jhelfric

jhelfric

Topsoil and Subsoil

Analysis:

The application does not meet the requirements of soil reclamation plan, R645-301-240. The application states that the stockpiles of coal and by-product will be removed to the neighboring facility owned by Savage (Section 5.40, p. 5-23). However, Appendix 8-1 Reclamation bonding indicates burial of 95,000 tons of waste in a trench (12.5 acres x 7 ft deep and cover with overburden to a depth of four feet. This plan also calls for surface roughening and seeding of the entire 30 acres.

A recent cessation order #21201 has also required modification of the reclamation plan. The reclamation plan revision should describe the utilization of both East and West in-situ topsoil.

Deficiencies Details:

The application does not meet the R645-301-240 requirements. The following deficiency must be addressed prior to final approval:

R645-301-242,

1. The reclamation plan should describe the recovery of in situ soil from both the East and West in-situ topsoil locations, and estimate the volume from both locations based upon a six inch topsoil depth.
2. The in-situ topsoil shown on Plate 5-1 should extend North along the West fence to the fence line along Ridge Road.
3. Soil redistribution and cover over the waste piles must be addressed in the plan (in accordance with R645-301-553.252).

pburton

Stabilization of Surface Areas

Analysis:

The application does not meet the requirement of stabilization of surface area, R645-301-244, because the reclamation described in the MRP is in conflict with the reclamation described in the bond.

Appendix 8-1 Reclamation bonding indicates burial of 95,000 tons of waste in a trench (12.5 acres x 7 ft deep and cover with overburden to a depth of four feet. This plan also calls for surface roughening and seeding of the entire 30 acres.

The amendment defines a 9.7 acre area of revegetation as shown on Dwg 5-2 south of the Middle loop shown on Plate 5-1 (dated 10/12/2017). The reclamation plan describes revegetation south of the middle loop road (Sec. 3.4.1, p. 3-11). The application states that south of the Middle loop, 2 Ton/ac mulch will be incorporated into the soil prior to seeding the mix described in Table 3-1 (p. 3-12 and 3-21).

The application further states the post mining land use will be industrial (Sec. 3.5.3). Section 5.4.1 (p. 5-23) states that North of the middle loop road (an area of approximately 10.3 acres), the surface will be stabilized by cover with 2 inches of road base treated with calcium or magnesium chloride. The Permittee provides documentation that this treatment will last for 10 years.

Deficiencies Details:

The application does not meet the R645-301-244 requirements. The following deficiency must be addressed prior to final approval:

R645-301-244, The stabilization plan for area North of the middle loop road, described in Section 5.4.1, is in conflict with the reclamation described in the bond.

pburton

Cessation of Operations

Analysis:

The application includes notification to be provided to the Division in the event of temporary cessation. This notice will include a statement of the exact tonnage of coal remaining on site during the temporary cessation. [The Division assumes that all stockpiles would be included in this statement of coal tonnage.] This will allow the Permittee to estimate the number of samples required for environmental monitoring to be conducted during temporary cessation as described in Sec. 7.3.1.3.

pburton

Bonding Determination of Amount

Analysis:

The amendment does not meet the State of Utah R645 requirements for Determination of Bond Amount. The following deficiency must be addressed prior to final approval:

R645-301-830.110, R645-301-830.120, R645-301-830.130: Narrative in section 5.5.3.2 states that upon reclamation the owner of the Savage Coal Terminal indicated that they would accept residual coal at no cost. However, the current posted bond amount on file for Wellington Dry Coal is \$732,000, which is predicated on a scenario where all material on site is buried and reclaimed in place. Detailed cost estimates with supporting calculations provided by the Division describe the specific reclamation activities required to restore the site.

Utah Administrative Code R645-301-830.120 specifically states that the posted performance bond should be based on requirements defined in the approved MRP. In this case, the current posted bond as calculated by the Division and the reclamation narrative in the MRP are incongruous. The posted performance bond must necessarily be the total of all costs outlined in the reclamation narrative contained in the MRP. Permittee must revise the reclamation narrative in section 5.5.3.2 to describe the specific activities that would be required to restore the site as defined in the posted bond.

Deficiencies Details:

R645-301-830.110, R645-301-830.120, R645-301-830.130: Permittee must revise the reclamation narrative in section 5.5.3.2 to describe the specific activities that would be required to reclaim the site as defined in the posted performance bond.

jeatchel