

Carbon Resources, LLC
PO Box 954
Sandia Park, NM 87047
Telephone: (505) 286-1253

May 9, 2011

Mr. John Baza, Director
Department of Natural Resources
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84116

Dear Mr. Baza,

RE: PERMIT APPLICATION RESPONSE TO DEFICIENCIES, TASK ID# 3779 DATED 5/2/11 FOR KINNEY NO. 2 MINE - PERMIT NO. C/007/0047

In response to the Divisions Technical review deficiencies, Carbon Resources submits the attached permit responses to the technical deficiencies outlined in the Division's letter of May 2, 2011. The deficiencies letter has been utilized as a guidance document to address the applicable regulations as directed, and to respond to the technical deficiencies. The guidance document contains the deficiencies followed by a description of how the deficiency was addressed and, with some exceptions, the page in the MPR where the deficiency was addressed.

Three copies of the appropriate portions of the MRP with deficiencies addressed in redline strike-out format are herewith included for review by the Division. As per agreement with Joe Helfrich, Team Leader, we have formatted the current responses in blue text to differentiate the latest textual changes from the previous red text to make it clear what is new. Having both the reline-strikeout from the previous round or revisions together with the addition of blueline-strikeout appears to be useful in minimizing confusion. We will provide final copies just as soon as the Division reviews and approves the changes.

This submission is accompanied by Forms C1 and C2 as required.

Please feel free to contact me, Greg Hunt at (970) 856-9477, or Ben Grimes at (435) 653-2304 with any questions regarding this application.

Respectfully Submitted,



Gregory Hunt

APPLICATION FOR COAL PERMIT PROCESSING

Permit Change New Permit Renewal Exploration Bond Release Transfer

Permittee: Carbon Resources, LLC

Mine: Kinney No. 2 Mine

Permit Number: C/007/0047

Title: Response to 5/2/11 Deficiencies Task ID#3779

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

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

- Yes No 1. Change in the size of the Permit Area? Acres: _____ Disturbed Area: _____ increase decrease.
- Yes No 2. Is the application submitted as a result of a Division Order? DO# _____
- Yes No 3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area?
- Yes No 4. Does the application include operations in hydrologic basins other than as currently approved?
- Yes No 5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond?
- Yes No 6. Does the application require or include public notice publication?
- Yes No 7. Does the application require or include ownership, control, right-of-entry, or compliance information?
- Yes No 8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling?
- Yes No 9. Is the application submitted as a result of a Violation? NOV # _____
- Yes No 10. Is the application submitted as a result of other laws or regulations or policies?

Explain: _____

- Yes No 11. Does the application affect the surface landowner or change the post mining land use?
- Yes No 12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2)
- Yes No 13. Does the application require or include collection and reporting of any baseline information?
- Yes No 14. Could the application have any effect on wildlife or vegetation outside the current disturbed area?
- Yes No 15. Does the application require or include soil removal, storage or placement?
- Yes No 16. Does the application require or include vegetation monitoring, removal or revegetation activities?
- Yes No 17. Does the application require or include construction, modification, or removal of surface facilities?
- Yes No 18. Does the application require or include water monitoring, sediment or drainage control measures?
- Yes No 19. Does the application require or include certified designs, maps or calculation?
- Yes No 20. Does the application require or include subsidence control or monitoring?
- Yes No 21. Have reclamation costs for bonding been provided?
- Yes No 22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream?
- Yes No 23. Does the application affect permits issued by other agencies or permits issued to other entities?
- Yes No 24. Does the application include confidential information and is it clearly marked and separated in the plan?

Please attach three (3) review copies of the application. If the mine is on or adjacent to Forest Service land please submit four (4) copies, thank you. (These numbers include a copy for the Price Field Office)

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

Clay Wisdom C.F.O. 05/06/2011
 Print Name Position Date Signature (Right-click above choose certify then have notary sign below)

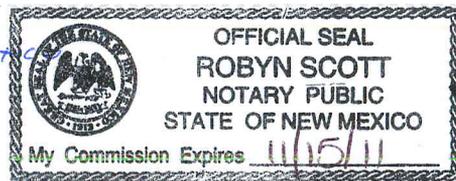
Subscribed and sworn to before me this 6 day of May, 2011

Notary Public: Robyn Scott, state of Utah

My commission Expires: NOV 15, 2011

Commission Number: _____

Address: 500A St. Hwy 333
 City: Tijeras State: NM Zip: 87059



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| For Office Use Only: | Assigned Tracking Number: | Received by Oil, Gas & Mining |
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APPLICATION FOR COAL PERMIT PROCESSING

Detailed Schedule Of Changes to the Mining And Reclamation Plan

Permittee: Carbon Resources, LLC
Mine: Kinney No. 2 Mine **Permit Number:** C/007/0047
Title: Response to 5/2/11 Deficiencies Task ID#3779

Provide a detailed listing of all changes to the Mining and Reclamation Plan, which is required as a result of this proposed permit application. Individually list all maps and drawings that are added, replaced, or removed from the plan. Include changes to the table of contents, section of the plan, or other information as needed to specifically locate, identify and revise the existing Mining and Reclamation Plan. Include page, section and drawing number as part of the description.

DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED

| | | | DESCRIPTION OF MAP, TEXT, OR MATERIAL TO BE CHANGED |
|---|---|---------------------------------|---|
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | List of Tables, List of Maps & List of Figures at beginning of MRP |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Index to Maps, Tables, Figures & Exhibits in Chapters 2, 3, 5, & 7 |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 1, pages 1-9, 1-10, 1-15 & 1-17 |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 3, page 41, 62 & 68 |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 3, pages 41a & 41b |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 4, pages 2, 3, & 18 |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 4, pages 3a & 3b |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 5, pages 4, 49 thru 52, 70, 88 thru 89, & 93 |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 5, pages 39a, 52a, 89a & 93a |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 7 in it's entirety |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 9, page 10 |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Maps 4, 8, 11, 12, 13, 14, 22-Roads P6-P9, 29 & 29a |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Add to Exhibit 3 - Distressed coal Letter of Intent to Purchase |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Add to Exhibit 3 - Offer to Purchase Reclaimed Coal |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Add to Exhibit 3 - Scofield Town Letter of Intent to Provide Water and Sewer Service |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Add to Exhibit 4 - Utah Department of Commerce Verification of Business Entity |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Add to Exhibit 4 - MSHA ID Number Letter |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Add to Exhibit 4 - US Fish & Wildlife Service Nest #1541 LOA Letter & DWR Concurrence |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Add to Exhibit 18 - Bond Calculations |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Exhibit 10, Eagle Spring, Angle Spring, Aspen Spring, Sulfur Spring, CR-06-02 |
| <input checked="" type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | Exhibit 10, Rock Logic Aspen Spring Memo, HansenAllen&Luce Aspen Spring Flow Estimate |
| <input type="checkbox"/> Add | <input checked="" type="checkbox"/> Replace | <input type="checkbox"/> Remove | Chapter 2, Page 10 |
| <input type="checkbox"/> Add | <input type="checkbox"/> Replace | <input type="checkbox"/> Remove | |
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| Any other specific or special instruction required for insertion of this proposal into the Mining and Reclamation Plan. | Received by Oil, Gas & Mining |
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PAGE Kinney MRP DEFFICIENCIES 4-11, Respond 5-11, Submitted 5-10-2011

ADMIN

R645-301-112, *The Application needs to include a copy of the proof of current registration with the Utah Department of Commerce and a reference in the narrative noting its location, (Chapter 1 page 1-9). This deficiency was previously noted. [JCH]*

RESPONSE:

1-9 Page 1-9 has been revised indicating that CR is currently registered. A copy of a print out from the Utah Department of Commerce web site is included for insertion into Exhibit 4, Other Permits. The date of the current registration was included on page 1-9 of the previous submittal to the Division, but we neglected to include a copy for insertion into Exhibit 4.

1

R645-301-112.200, *According to the information received by the Division, when trying to Contact Carbon Resources in Sandia Park New Mexico, the phone number had been disconnected. The application needs to include current correct information. [JCH]*

RESPONSE:

1-10 Page 1-10 has been revised with the correct phone number.

2

R645-300-141, 301-114.100, *The reviewer is referred to pages 1-18 and 1-19, R645 301-114.100, (Documentation of Ownership). They include legal descriptions of the Fee surface and Leased surface boundaries. Page 1-20 includes a legal description of the of the permit boundary. The text on pages 1-18 and 1-19 of the application include a reference to lease area and permit area boundary maps 11 and 12. However the maps are not to a scale of 1"=1000' that clearly show the boundaries of the lease and permit areas in order to verify the legal description as previously noted in consultation with the applicant. [JCH]*

RESPONSE:

Maps 11 & 12 Larger size copies of Maps 11 and 12 are included with this submittal at a scale of 1"=1000'.

3

R645-301-121.200, *The disturbed area boundary is noted in the legends of Maps 13 and 14. The entire boundary needs to be accurately and clearly shown on Maps 13 and 14 as depicted in the corresponding legends. [JCH]*

RESPONSE:

Maps 13 & 14 Maps 13 and 14 have been revised to clearly show the disturbed area boundary. Copies of both maps are included in this submittal.

4

R645-300-132; R645-301-113, *The entity ID numbers for Carbon Resources, LLC, Western Reserve Coal Company, Inc. and WRCC, LLC. were located in the confidential file. This information noted on pages 1-10 and 1-11 is not confidential and needs to be included in the application. [JCH]*

RESPONSE:

1-10 The tax ID numbers were added to page 1-10 in the previous submittal of March 21, 2011. There is nothing on page 1-11 that needs to be revised or added, all required information is presented including the Social Security numbers for the officers of the company.

5

Additional Updates made to Chapter 1:

1-15, 1-17 Pages 1-15 and 1-17 updated to reflect conversion of Easement to Lease. This conversion happened in 2007 but the language was a holdover from previous submittals.

6

SOILS

R645-301-731.300 and R645-301-536.320, Section 528.320 states that the maximum time the temporary waste pile will remain on the surface is two years. Section 515.300 of the MRP states that during periods of temporary cessation lasting 30 days or more, one composite waste sample will be drawn from the temporary waste pile. The document does not indicate what parameters will be analyzed. Please indicate a list of parameters to be analyzed and indicate that one composite sample will be taken for every 5,000 Tons in the pile. [PB]

RESPONSE:

7

5-4

One composite sample per 5,000 tons in the pile will be sampled for parameters listed on Tables 3 and 7 in UDOGM January 2008 "Guidelines for Management of Topsoil and Overburden" Language added to Page 5-4

2-10
Exhibit 3

ADDED Reference to written expressions of interest in Reclaimed Coal, found in Exhibit 3.

BIOLOGY

R645-301-333, Additional consultation in March of 2011 with the applicant, FWS, DWR and DOGM changed the complexion of the raptor nest protection commitments to a monitoring and mitigation plan with appropriate revisions to the text in chapter three. Paragraph 2 on page 3-41b will need to be revised to include the Division of Oil, Gas and Mining as a consulting agency and a commitment to obtain approval from DOGM for any mitigation plans that may be required as a result of the consultation. [JCH]

The application will also need to include the approval from the USFWS for the proposed deterrents for nest # 1541. [JCH]

RESPONSE:

8

3-41,341a,341b
Exhibit 4

The submittal of April 5, 2011 included new text on pages 3-41, 3-41a and 3-41b addressing raptor nest #1541 nesting deterrent actions, including a monitoring plan and a commitment to cooperate in a mitigation plan to be determined at a future date by the agencies involved. This submittal includes new language on page 3-41 indicating that the UDOGM is a consulting agency along with the Utah Division of Wildlife Resources. Text has also been added indication authorization and approval to conduct the nesting deterrent action was received from the USFWS on April 26, 2001 and concurrence from the UDWR was received on April 28, 2011. Copies of these approvals are included with this submittal to be inserted into Exhibit 4, Other Permits.

R645-301-333, The proposed mining activities are located in a watershed that contributes water to the upper Colorado River. Within that section of the river are four endangered fish species, the Colorado pike Minnow, Razorback Sucker, Humpbacked Chub and Bonytail. Page 3-59 of the application needs to be revised to include the figure of 66 acre feet per year, (personal conversation with Greg Hunt 1/5/2011), based on the water rights allotted to Carbon Resources. The figure will then be used by the Division and FWS to determine potential adverse effects to the referenced species and to complete the consultation process with the FWS. This is a DOGM obligation. [JCH]

RESPONSE:

9

3-62

Language has been added to page 3-62 in the 2nd full paragraph indicating 31 acre feet per year of depletion. Copies of revised page 3-62 are included with this submittal.

PAGE Kinney MRP DEFFICIENCIES 4-11, Respond 5-11, Submitted 5-10-2011

individual(s) and the data collected during the baseline field surveys used to determine that there were no jurisdictional wetlands located within the proposed disturbed area. In the latest response the applicant has indicated that “CR has made additional commitments in this submittal to conduct additional wildlife studies to respond to the Division’s concerns”. The applicant’s response needs to include a reference to the appropriate chapter and page of the application that address the Division’s deficiency,ies). [JCH]
RESPONSE:

10

Previous Submittal

In the meeting with UDOGM on February 14, 2011-we discussed this and Joe suggested we delete the language about jurisdictional wetland. This text on page 3-54 was removed in the 3/21/2011 submittal as indicated by redlining. A commitment to conduct further vegetation investigation during 2011 by Patrick Collins was made on pages 9-8, last 2 full paragraphs, and on page 9-13, top 2 full paragraphs of the March 21, 2011 MRP submittal. During this investigation, Patrick will evaluate the area for wetland status.

No additional revisions are required at this time.

R645-301, Page 4.3-5 paragraph two should be deleted as it makes reference to the “Barn Canyon air ventilation shaft” The applicant has noted that the paragraph has been deleted. However t he applicant’s response needs to include a reference to the appropriate chapter and page of the application that address the Division’s deficiency,ies). [JCH]

RESPONSE:

11

Previous Submittal

The original mistake can be found on page 4.3-5 in paragraph 1 of the February 2008 MRP. The reference to Barn Canyon was removed from the text on page 5-58, paragraph 2 of the 10/1/2010 revision and reformatted MRP. The text addressing the potential impacts to wildlife due to contact with live electrical lines where the Barn Canyon reference was is now on page 3-61 paragraph 2.

No additional revisions are required at this time.

LAND USE

and legend needs to be revised as follows: Watershed Zone all of map except as shown in the legislated zones, Land Designations and legend. [JCH]

RESPONSE:

12

Map 4

Map 4 has been revised as suggested, with the exact wording suggested.

R645-301-411, The Land Use information is included in chapter 4 and on map #4 (Regional Land Use) of the application. The proposed disturbed area includes two zoning classifications for the proposed disturbed area, Scofield Commercial and Carbon County Mountain Range. A portion of the area is a reclaimed abandoned mine site and the remaining portion is an undisturbed grass, shrub aspen community both of which are used primarily for wildlife, grazing and outdoor recreation according to the text on page 4-9. These current land uses are included in the Commercial and Mountain Range zones but are components of Watershed zone. However the applicant has stated that “There are no planned facilities associated with the Kinney #2 Mine within the WS zone”. The application needs to include a rationale in the narrative that clearly explains and clarifies this information much better than what has been presented to date. [JCH]

RESPONSE:

13

See Below

See the response to R645-301-412. -301-413, -301-414 below for this item:

R645-301-412, -301-413, -301-414, Chapter 4, Section R645-301-412.100, Page 4-18, Paragraph 1 needs to be revised to state that "The post mining land use for the reclaimed area is wildlife, grazing and recreation". The terms Mountain Range, Watershed and Commercial are classifications established by Carbon County and the Scofield Town for zoning purposes described in chapter 4 on page 4-4. [JCH] Try again; you were given the answer.

RESPONSE:

14

The two deficiencies above are addressed as follows:

As discussed with Joe Helfrich in Price, Utah a simplification of the land uses and zoning ordinances showing pre-mining land use, and post mining land uses will respond to this deficiency. We discussed a table showing the land uses would simplify and clarify the issue. Pages 4-2 and 4-3 (Revision of 1/25/2011) have been revised by adding new Table 3 and text explaining Table 3. Table 3 presents historic land uses, uses during mining and post mining land uses proposed for the Kinney No. 2 Mine. To keep pagination correct in chapter 4, this revised text forces older text onto pages 4-3a and 4-3b. In addition, page 4-18 (R645-301-412.100 Post Mining Land Use Plan) has been revised referencing Table 3. Revised pages 4-2 through 4-3b and page 4-18 are included in this submittal.

The explanation following this paragraph is only for clarification and responds to the Division's request for "clarification" of our rational for the land use and zoning language in the text.

The actual land uses are components of those land uses allowed by zoning ordinances , however, Mountain Range and Scofield Commercial Zones are not Sub-sets of the Water Shed Zone. They are totally separate zoning designations, they just share some of the same characteristics.

Carbon Resources has used as the basis of addressing the land use regulations the UDOGM definition of Land Use as follows:

R645-100-122 "Land Use" means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur and may include land used for support facilities that are an integral part of the use. Changes of land use from one of the following categories to another will be considered as a change to an alternative land use which is subject to approval by the Division."

Our interpretation of this definition is literal, in that "…uses or management related activities…" has to mean legislated uses by the local or state authority. In Carbon County the zoning ordinances have been promulgated in response to Utah Sate Law at Title 17 Chapter 27a, which gives authority to the County to establish zoning ordinances - including land uses within those zones established in the ordinance.

Land uses included in the UDOGM regulations under "Land Use" include but are not limited to:

- Developed Water Resources – This would include the Carbon County Water Shed Zone, which also allows grazing and recreational uses. **There are no planned facilities in the Kinney No. 2 Mine MRP in this Land Use area. This can be verified by looking at Map 4, Regional Land Use Map and Map 13. Surface Facilities Map. All mining facilities are within the County Mountain Range Zone and land use area, and within the Scofield Commercial Zone and land use area.**
- Grazing Land – This use is included in the Carbon County Water Shed Zone, and in the Mountain Range Zone and land use areas.

- Recreation – this use is included in the Carbon County Water Shed Zone and the Mountain Range Zone.

Below are copies directly from Utah Code establishing the County's responsibility and obligation to establish land uses (Zoning Ordinances).

[Utah Code](#)

[Title 17 Counties](#)

[Chapter 27a County Land Use, Development, and Management Act](#)

Section 102 Purposes -- General land use authority.

17-27a-102. Purposes -- General land use authority.

(1) (a) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each county and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.

(b) To accomplish the purposes of this chapter, counties may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the unincorporated area of the county, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

[Utah Code](#)

[Title 17 Counties](#)

[Chapter 27a County Land Use, Development, and Management Act](#)

Section 501 Authority to enact land use ordinances and zoning map.

17-27a-501. Authority to enact land use ordinances and zoning map.

The legislative body may enact land use ordinances and a zoning map consistent with the purposes set forth in this chapter.

The Division's statement above, *"These current Land uses are included in the Commercial and Mountain Range zones but are components of Watershed zone "* is true, however, these land uses are also included in the Mountain Range Zone by County Code. The Water Shed Zone has specific language as follows:

Carbon County Zoning Ordinance "4.2.16 Water Shed Zone. The WS Water Shed Zone (formerly CE-1 Zone) covers the canyons, mountains, and other lands above 7,000 feet in elevation, and of environmental concern in the County. Because of limitations imposed by topography, climate, soil conditions and other natural features, use of the land within this zone has been limited primarily to livestock grazing and related uses, wildlife habitat, certain outdoor recreation activities and facilities, and limited mineral extraction.

The land within this zone has functioned historically as part of the watershed for a majority of the irrigation, culinary, and industrial water supply for the Price River Valley and East Carbon City area. It is also recognized that the landscape is constantly changing due to natural occurrences such as fire, flood, insect infestations and landslides. Human activities such as logging, grazing, hunting, camping and other uses affect the landscape, and are accepted as normal in this zone. Experience has shown this watershed area to be fragile; its confirmed function as a water source is of critical importance to the County.

As can be seen in the zone ordinance language, grazing, recreational and mining uses are included.

The Mountain Range Zone has specific language as follows:

Carbon County Zoning Ordinance "4.2.17 Mountain Range Zone . Historically, lands within this zone have been used for livestock grazing, ranching, mining, logging, and other productive uses. These lands also function as a part of the watershed that supplies nearly all the irrigation and culinary water for the Price River Valley and East Carbon City areas.

Because of a combination of factors, including accessibility from existing roads, railroads, availability of water, suitable topographical, soil and vegetative conditions, and aesthetic attractions, the territory included within this zone is capable of accommodating irrigated agricultural and certain mining, recreational and summer housing developments without due adverse effect on the quality of the watershed, provided that such developments are constructed and maintained under regulated conditions."

As can be seen in the zone ordinance language, grazing, recreational and mining uses are included.

BOTTOM LINE

The UDGOM regulatory definition of Land Use says in part, " R645-100-122 Land Use means specific uses or management-related activities, rather than the vegetation or cover of the land." Management-related activities means according to Utah State Code at Title 17, Chapter 27a, "... (b) To accomplish the purposes of this chapter, counties may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the unincorporated area of the county, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law."

Land uses are established by Carbon County for Water Shed and Mountain Range Zones and by Scofield Town for the Commercial Zone areas.

- The Kinney No. 2 Mine surface facilities are only located in two Land Use Zones:
Carbon County Mountain Range Zone
Scofield Town Commercial Zone

Shed Zone

Land Use and in compliance with Carbon County and Scofield Town zoning and land use ordinances.

ENGINEERING

R645-301-528.320, *The applicant must change the text in the paragraph on page 5-70 that states that the "coal processing waste storage pile is shown as No.7 on map 13". It should be "No.38". Also, Map 13 should be corrected to include No. 38 depicted in the correct location, the No.18 that is incorrectly labeled must be removed, and the surface facilities list must provide the correct description of No.38. [JCO]*

RESPONSE:

5-70 Page 5-70 has been revised to reference no 38 instead of no 7. Map 13 has been revised to make it clear that item no 18 points to the Solid Construction Debris Disposal Areas (multiple), and that no 38 points to the Coal Processing Waste – Temporary Stockpile. Revised copies of page 5-70 and Map 13 are included in this submittal.

5-68 Reference to Arch Coal Letter of Intent which is found in Exhibit 3 Confidential Information. (the color is inverted on this page, red is the recent edit.

HYDROLOGY

R645.724.100 and .200, Table 7 should be updated to include water quality parameter sampling for all groundwater monitoring wells in the monitoring well network and ephemeral drainages within the permit area. [AA]

Division Response: The applicant committed to sampling all wells containing a static water level where it was feasible to sample. However, according to Table 7 provided on page 7-16, all monitoring well data indicate that they will be gauged for water level only. No changes were made to indicate that all wells will be tested for water quality parameters (??).

Table 7 outlines the operational water monitoring program for the mine. The table only depicts column headers for “water level”, “flow”, “water quality” and “water presence” measurements. Flow is only one component of the required suite of field parameters which also include at minimum: pH, specific conductivity corrected to 25 deg C, flow or depth to water measurements. These parameters should all be consolidated under a “Field measurements” column instead of flow or water level. Furthermore, it would be clearer in the table to label the column “Laboratory Analytical Parameters” instead of “Water Quality” since field and laboratory measurements can all be fall under the label of “Water Quality”. The Division sees no point in a separate column for “Water Presence”, which pertains to the ephemeral channels. Each of these ephemeral channels are included in the table and it is understood they will be monitored for the presence of water on a quarterly basis like all the other sample points. While it is helpful to clarify water sampling points that were initially mislabeled, Table 7 is probably not the appropriate place to include a series of footnotes on what data points were mislabeled in the early stages of the data gathering process. Going forward as the mine becomes operational, all sample nomenclature will be well established and this may confuse future readers of this document. **Please make the necessary corrections to Table 7 – Operational Water Monitoring Plan are needed to insure that the information presented is clear and concise.**

RESPONSE:

16

7-8 Table 7 has been updated and is now clear and concise, and shows water quality parameters being collected form all the wells on the table when water is available.

R645.724.100 and .200, As a result of CR-06-03-ABV being decommissioned, only six months worth of baseline data were collected from this well. If extraction of the Hiawatha seam is expected to make its way eastward right up to fault that delineates the western side of the Eagle Canyon graben, then the Permittee must provide a commitment to install a replacement well in order to measure any possible negative effects that adjacent mining would have on the groundwater found within Eagle Canyon Graben. [AA]

Division Response: The applicant has committed to providing an in-mine well to measure the water quality within Eagle Canyon as mining extends eastward towards the western boundary of the western boundary fault. The MRP was updated on page 7-16 to show this commitment. This well is to pierce the gouge zone of the fault and will be equipped with a differential pressure gauge and valve to monitor water levels and water quality parameters. During the Division’s meeting with Carbon Resources, the Division requested that a schematic drawing of this proposed in-mine well be provided. This was not provided in the most recent round of review of the application. **Please provide a well schematic diagram. Furthermore, this well should be added to the operational water monitoring plan.**

RESPONSE:

17

7-7

A new figure numbered 15 and titled “Underground Horizontal Monitor Well Completion” has been constructed and has been added to the MRP and referenced on Page 7-7 .

R645.724.100 and .200, Eagle Springs 1, Eagle Springs 1A, Eagle Spring 2, Eagle Spring 3 are located within the permit boundary, and should be added to the operational water monitoring plan. [AA]

Division Response : More information has come to light in this latest round of review which indicates that Eagle Springs 1, Eagle Springs 1A, Eagle Spring 2, Eagle Spring 3 were only monitored initially when the Spring and Seep Survey of the area was conducted in 2006 by Rock Logic Consulting, LLC. These springs were initially shown to have “estimated” flows of less than 0.5 gallons per minute. Since the survey was completed in 2006, these springs have not been monitored despite the fact that they are within the limits of the permit boundary. Additional baseline data of Eagle Springs 1, Eagle Springs 1A, Eagle Spring 2, Eagle Spring 3 all within the permit area is still needed and would be considered critical to monitor and characterize for baseline, such that any negative impacts from coal mining can be evaluated.

RESPONSE:

18

It can be asserted that Carbon Resources has meet the intent of the Regulation to “Characterize and Estimate Discharge” from Groundwater Sources. We choose Aspen Spring as the representative source in this system. However, in order to refine the “discharge estimate” Carbon Resources commits to collect additional data and further commits to a high estimate for replacement water should the sources in Eagles Canyon be affected by mining in the Kinney # 2 mine. When refinement of discharge estimates are complete the refined estimates will be used as replacement commitment. Eagle Spring (Seep) 3, Eagle Spring & Pond 2, Eagle Spring (seep) 1A, and Eagle Spring (seep) have been added to the operational water monitoring plan Table 7 on page 7-8.

7-18, 22-24,

Text has been added to the following pages relative to this issue: Pages 7-18, 7-22-24, 7-37, 7-83, 7-108, and 112.

7-37, 7-83, 7-108, 7-112

R645.724.100 and .200 , Monitoring of Aspen Spring began in June 2008 and then resumed in June 2010. The data presented indicates that flow was “not measured or at a trickle”. Several dates on the analytical data table were listed but no information was given. Field parameter data were given despite flow measurements not being recorded. How can field parameter data be collected if no water is flowing? If dates are given with no information, the table should note that the spring was monitored but not flowing. Please clarify this information and update the analytical tables accordingly. It is important to note that even if a sample location is dry and not flowing, it is still imperative that it be recorded as data collected. For example, Eagle Spring has been monitored consistently since 2005 yet according to Table 6, it appears that data collection is sporadic because only dates when water quality data were available are shown. [AA]

Division Response: *The applicant was asked to clarify the monitoring data pertaining to Aspen Spring since it was not clear how analytical parameters could be collected but flow data was not. The applicant addressed this deficiency by indicating that this location is actually a pond otherwise referred to as "Eagle Pond 1" and that the spring feeds a small pond presumably from the bottom where it is not possible to measure a flow. The applicant has indicated that since Aspen Spring is located in the same general region as the cluster of Eagle Springs 1, 1A, 2 and 3, that it can be the spring that is "representative" of all the springs. The problem is that since it has come to light that Aspen Spring is actually a pond, a representative spring sample cannot be obtained without a flow measurement. Furthermore, Eagle Pond 1, aka Aspen Spring would now be considered surface water sampling point and not a groundwater sampling point and any laboratory analytical measurements would not accurately characterize a sample collected from a pond versus a groundwater sample from a spring that would more accurately reflect groundwater geochemistry. To add further to the confusion, during this round of review where the applicant contends that Aspen Spring is also referred to as "Eagle Pond 1". However there is no reference in the 2006 Spring and Seep Survey to Eagle Pond 1. The closest characterization of Aspen Spring in the 2006 report is Eagle Spring 2. Therefore, it is unclear exactly which of the springs and seeps identified in the survey is definitively Aspen Spring. **Since Aspen Spring is a pond, it cannot be considered the representative spring and will need to be removed from the plan as such. If this pond is confirmed to be tied to the surface water right in the area (see deficiency #5 to follow) then it will require some type of water level monitoring protocol to ensure that there is no water loss to this water right.***

RESPONSE:

19

Eagle Pond 1 is identified on the Map provided by Rock Logic in the spring and seep survey but, as the Division points out, was not discussed in the text of the Spring and Seep Survey. The location on the map is clear and there is no confusion as to which spring is Aspen Spring (aka Eagle Pond 1). make a small pond to "corral" enough water to be useful for livestock the spring issues into the bottom of the pond. The pond is off-channel and does not collect runoff water and therefore is not sourced from surface water and in fact is sourced by Aspen Spring. See discussion on pages 7-18, 7-22-24, 7-37, 7-83, 7-112. This comment in this document only- no addition to MRP: The water right referred to is right 91-4026 and is NOT a Surface Water right, but instead is a Ground Water right filed on a spring and pond. that the claimant will need to file a point of diversion change and provide gps coordinates to the spring/pond. In addition, the right is for one spring and pond and clearly there are now two. The claimant will also need to modify the water right to account for the second pond and that might include purchasing additional shares of water to cover the second spring/pond. Mark intends to contact the claimants representative to make the changes. Carbon Resources has offered to help the claimant with gps location and help in any other way we might. Carbon Resources will also contact the claimant and

R645-301.731.800, *Surface water right information needs to be expanded upon to address the surface water rights within the permit boundaries. The application needs to be updated to include updates to Map 31 explaining the "See Note 1" comment next to water right number 91-3588. Additional information about the status and nature of the two individual water rights is needed on page 7-53 of the application. [AA]*

Division Response: *The applicant contends in their deficiency guidance document that the surface water right identified within their proposed permit area is Aspen Spring and is one in the same with the surface water right #91-4026 located at the bottom of Eagle Canyon. However there is no explanation tying this water right to Aspen Spring explained anywhere in the MRP. In fact, on page 7-58, the water right is characterized as a stockwater right on an unnamed spring with no mention of an associated pond. The information on the water right taken directly from the Utah Division of Water Rights database included in Exhibit 13 indicates that water right #91-4026 is an unnamed spring used for stockwatering. The original adjudication map does show the water right as a spring with an associated pond, but again there is no discussion that definitively concludes that this water right is Aspen Spring, other than what has been discussed in the deficiency guidance document prepared by the applicant. **Please state in the MRP which surface water sampling point is associated with surface water right No. 91-4026.***

RESPONSE:

20

R645-731.500, *Sludge materials that end up in the sediment pond are combinations of underground development waste and non-coal waste as defined in the regulations under R645-100-200 and R645-301-528.331, -542.741 and -747.100. Non-coal wastes include, but are not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, lumber and other combustible materials generated during mining and reclamation activities. Non-coal waste streams are not an accepted form of waste allowed to be discharged into underground mine workings as per R645-731.511 & 512. **It is recommended that this sentence be removed and language associated with the applicant's intent to haul sediment pond sludge offsite be inserted.** [AA]*

Division Response: *The applicant indicated in their deficiency response document that no non-coal waste materials would be disposed of in abandoned underground workings. However, the correction was not made to the language in the MRP stated on page 7-114 pertaining to sludge materials from the sediment pond being disposed of in abandoned underground workings. Please remove language in the MRP stating that non-coal waste materials will be disposed of in underground workings.*

RESPONSE:

21

Carbon Resources has no intention of putting, or allowing most of the items mentioned in the Divisions comments above into the sediment pond. It is not a garbage dump. There could be minor amounts of oil and grease that get into the pond water from storm runoff, however, it will be minor. From 23 years experience working at two different mines with over 10 sediment ponds the author has yet to see more than a minor sheen of oil on the water in a sediment pond, and never did he allow, or see a pond used for a garbage dump. In all of those years, the author never experienced a violation of the UPDES discharge permit limits for any constituent.

7-113

The text on page 7-113 has been revised to say that sediments removed from the sediment pond will be transported to a Utah State approved disposal facility such as ECDC in East Carbon , Utah.

R645-301-120, *The Permittee must delete the Monitoring Well discussion on pages 7-12 thru 7-14. The previous technical analysis directed the Permittee to address the various water level reading discrepancies. It was the intent of the Division to simply have the well data revised to accurately reflect the characterization of the groundwater system. An explanation of the errors and confusion is not required information for an approved Mining and Reclamation Plan (MRP). [SC]*

RESPONSE:

22

7-4 & 7-5

Text on pages 7-4 through 7-5 have been highlighted in yellow and tagged for deletion. Would appreciate feedback on exact amount to delete.

R645-301-724.100, *The Permittee must provide additional baseline data to characterize the springs and seeps located within the permit boundary (specifically Eagle Springs 1, 1A, 2, 3 and Aspen Spring). The previous two technical analyses (#2989 and #3646) identified baseline deficiencies relative to the Eagle Springs. In addition, the previous technical analysis (Task ID #3646) identified a deficiency relative to the baseline data collection of Aspen Spring. The Permittee was asked to provide documentation as to how these resources were characterized (i.e. provide the frequency/dates of monitoring visits and associated data). In response, the Permittee has indicated that the water monitoring data obtained at Angle Spring (2005 and 2006) combined with the data collected at Aspen Spring (aka Eagle Pond 1 in 2008 and 2010) provides the baseline data necessary to characterize the nature of these springs/seeps (i.e. Angle Spring, Eagle Springs 1, 1A, 2 and 3) as they all discharge from the fault system within the Eagle Canyon Graben. However; no flow data has been obtained from Aspen Spring. The Permittee indicates on page 7-31 that "it has never been possible to measure flow" from Aspen Spring. In addition, Eagle Springs 1, 1A, 2 and 3 have not been monitored. In the absence of the baseline spring data, the Division is unable to make a finding that the springs/seeps and associated groundwater have been adequately characterized. [SC]*

RESPONSE:

23

7-8 It can be asserted that Carbon Resources has meet the intent of the Regulation to “Characterize and Estimate Discharge” from Groundwater Sources. We choose Aspen Spring as the representative source in this system. However, in order to refine the “discharge estimate” Carbon Resources commits to collect additional data and further commits to a high estimate for replacement water should the sources in Eagles Canyon be affected by mining in the Kinney # 2 mine. When refinement of discharge estimates are complete the refined estimates will be used as replacement commitment. Eagle Spring (Seep) 3, Eagle Spring & Pond 2, Eagle Spring (seep) 1A, and Eagle Spring (seep) have been added to the operational water monitoring plan Table 7 on page 7-8.

7-17, 21-24, Text has been added to pages 7-17, 7-21-24, 7-37, 7-83, 7-108, and 112.
7-37, 7-83, 7-108, 7-112

R645-301-724.100, The Permittee must address a statement on page 7-11. The Permittee states that Aspen Spring is “named Eagle Pond 1 in the Spring and Seep Survey”. The Seep and Spring Survey in Exhibit 9 does not appear to identify nor discuss Eagle Pond 1 or Aspen Spring. [SC]

RESPONSE:

This response is in this doc only – not discussed in MRP: Eagle Pond 1 is identified on the Map provided by Rock Logic in the spring and seep survey but, as the Division points out, was not discussed in the text of the Spring and Seep Survey. The location on the map is clear and there is no confusion as to which spring is Aspen Spring (aka Eagle Pond 1)

(aka Miller Spring), Sulfur Spring, Aspen Spring and Res-1 has been removed from the application. The previous application’s Figure 17 contained flow, conductivity and pH field measurements for these hydrologic resources. The application currently under review does not appear to include this information. [SC]

RESPONSE:

7-43 th 7-50 **Figure 17 has been updated to include all data. This incidence is a strange example of inserting raster images into a word document. All of figure 17 was actually inserted into the word document but upon close inspection there was overprint (stacking) of portions of the figure so the top of the stack was all that was printed into PDF format. Pages 7-43 through 7-50.**

R645-301-724.100, The Permittee must address statements on pages 7-21, 7-135 that refer to Figure 17, Field Data as containing field data for monitoring wells. Figure 17 contains information for Mud Creek, Miller Outlet and Angle Spring only. [SC]

RESPONSE:

7-43 th 7-50 **The problem is not with the text rather with insertion of the Figure. Figure 17 has been updated to include all data. This incidence is a strange example of inserting raster images into a word document. All of figure 17 was actually inserted into the word document but upon close inspection there was overprinting (stacking) of portions of the figure so the top of the stack was all that was printed into PDF format.**

R645-301-724.100, The Permittee must revise the data provided for CR 06-02 in Exhibit 10, Surface and Ground Water Field Measurements. Based upon the monitoring well completion diagram in Exhibit 11, Monitoring Well Completion Details, all depths are measured from the ground surface elevation of 8,336.7’. The diagram for CR 06-02 shows a depth to the top of the screen as 422.7’. $8,336.7' - 422.7' = 7,914'$. However, the data in Exhibit 10 shows the top of the screen to be 7,894.0’. [SC]

RESPONSE:

Exhibit 10 **Monitor Well Completion Details for CR-06-02 have been updated and corrected in Exhibit 10. There was an arithmetic error where the screened interval was subtracted from the wrong starting point.**

24

25

26

Exhibit 10 **Additional Corrections on Exhibit 10, (and Figure 17). The template used for compiling field data began as a "surface water" template and was inadvertently used also for compiling spring data. Springs flow from "ground water" and the summaries have been corrected to reflect that.**

R645-301-724.100, The Permittee must revise the 1st sentence of paragraph three in Exhibit 20. In discussing the ephemeral drainages within the permit and adjacent area, the Permittee states, "The reason these drainages were excluded from the baseline monitoring suite is simply because flowing water never observed in any of them during the baseline monitoring period." The application has been revised to document 21 field visits where flow was not observed in the 7 ephemeral drainages discussed in Exhibit 20 (See Exhibit 10 and Figure 17). The recorded field observations constitute baseline monitoring of these drainages. Additionally, the Permittee should revise the last paragraph of page 8 of Exhibit 20 to reflect the number of site visits (21 visits, not 22) documented in Figure 17 and Exhibit 10. [SC]

RESPONSE:

Exhibit 20 **The first sentence of paragraph three in Exhibit 20 has been revised.**

The last paragraph of page 8 has been updated changed from 22 to 21 field visits.

27

R645-301-725, The Permittee must address the baseline data deficiencies outlined previously in order for the Division to assess the probable cumulative hydrologic impacts from the proposed operation on ground and surface water systems. [SC]

RESPONSE:

Above **Refer to R645-301-724.100, Above**

28

R645-301-728, In order to accurately assess the PHC Determination provided in the application, the Permittee must first address the baseline data deficiencies outlined in the Baseline Information section. Per R645-301-728, "The PHC determination will be based on baseline hydrologic, geologic and other information collected for the permit application". Once the baseline deficiencies have been addressed, the Division will be able to assess the probable hydrologic consequences associated with the proposed mining activity. [SC]

RESPONSE:

Above **Refer to R645-301-724.100, Above**

29

R645-301-527.123, -527.200, -534.300, -742.323 and -742.423.1, The Permittee must provide the detailed design information for the two post-mining land use roads. Upon review of the application, it does not appear that the required design information for the post mining land use roads depicted on Maps 29 and 29A is provided. It appears the application only provides the design information/discussion for primary roads P1 through P7 in section R645-301-527. It is noted that diversion ditches UDD-1 and UDD-2 (directly adjacent to eastern most post-mining land use road) have been sized for the 100-year, 6-hour event as required for a permanent diversion. Road profiles are provided for roads P1 through P7 on Maps 20-22. It does not appear that a road profile has been generated for the post-mining land use roads. Additionally, any permanent diversions that may be constructed would need to be designed to adequately handle the runoff generated from a 100-year, 6-hour rainfall event. [SC]

RESPONSE:

30

5-49 th 5-52, 5-88 th
5-89a, 5-93

A post mining land use road (now numbered P8) was shown on Map 29 and 29A running through the lower portion of the mine site. This road is necessary to replace a pre-mining access road to private property east of the mine site and north of the mine site. This road must be a Primary road to meet UDGOM regulations. A road on the east side of the mine site (now numbered P9) was shown on Map 29 and Map 29A which replaces a pre-mining access road to private property east of the mine site (mandated in long term lease from George Telonis etal referred to under 112.800, Pages 1-16 & 17) This road also must be classified as a Primary road to meet UDOGM regulations. Both of these roads have been labeled on Maps 29 and 29A, and a detailed design provided on new Figure 25A, Primary Roads P8 & P9 Configuration, which has been added to Chapter 5 on page 39a. The text on pages 5-49 through 5-52; 5-88 through 5-89a; and 5-93 through 5-93 has been revised to address these roads.

Revised copies of the pages mentioned above are included in this submittal. The pages have been paginated to replace existing text from previous submittals without losing any text, or repaginating the text preceding or following the revised pages.

R645-301-731.210, The Permittee first address the deficiencies relative to groundwater baseline data before the Division can make a finding that the proposed operational phase groundwater monitoring plan meets the requirements of the State of Utah R645-Coal Mining Rules. Per R645-301-731.211, the groundwater-monitoring plan must be based upon the PHC determination as well as all baseline hydrologic and geologic information. [SC]

RESPONSE:

See R645-301-724.100, Above

31

R645-301- 531, -742.300, -760, The Permittee must revise the 4th paragraph on page 7-126. The application indicates that ditch DE-2 is a component of the interim drainage control. However; Map 29 does not depict DE-2 as part of the interim drainage control. It appears that the text incorrectly references ditch DE-2 rather than ditch DE-4. [SC]

BONDING

R645-301-800, The applicant must demonstrate compliance with all of the regulations pertaining to bonding at such a time as bond calculation and reclamation cost estimates can be evaluated based on the details within an approved permit application. All direct and indirect reclamation costs must be included for proper bond calculation. The Division will evaluate the bonding requirements after technical issues with the permit application have been addressed. [JCO]

RESPONSE:

There are no substantive issues remaining that would change the bond calculations at this time. Bond calculations are included with this submittal to be inserted into Exhibit 18, Bonding and Insurance Information.

32

ALUVIAL VALLEY FLOORS

R645-302-320, According to the information in the application section 3.2.1.2-1 “Facilities Area Vegetation Map contain resource values consistent with the AVF criteria. See page 7.0-5 of the first submittal. The applicant agreed to delete this statement from the text during the deficiency response meetings held at the Division’s office in Salt Lake on February 14th and 22nd 2011. [JCH]

RESPONSE:

33

The language from the original page 7.0-5 was reformatted at the Division’s directive. The language in question was reformatted to page 9-12 in the submittal received by the Division on 10/4/2010. The language was revised in the submission received by the Division on 3/21/2011, which can be found on page 9-13 of that submittal. The language was revised as follows, “~~While limited~~ areas downstream from the study area and west of the line labeled as Pastureland on Map 1A, Facilities Area Vegetation Map ~~contain resource values consistent with the~~ may be an AVF ~~eriteria,~~ however future mining activities will not change the status or condition of the geology, ground water, surface water, or soils in this possible area for the following reasons:”

34

R645-302-320, In an “E” mail to the Division dated 12/21/2010 the applicant has stated that “Vegetation species in the area adjacent to the permit area west of highway 96 (as stated in the original application) include species consistent with AVF’s”, yet the text in Chapter 9, Page 9-10, Paragraph 3 states that “Although no species identification has been conducted on the 8.69 acres. It is evident from casual observation that grasses make up the predominant vegetative community”. The applicant agreed to delete this statement from the text during the deficiency response meetings held at the Division’s office in Salt Lake on February 14th and 22nd 2011; it is still in the application. The applicant’s response also indicated that “a commitment had been added to chapter 3, page 3-68 stating Patrick Collins (Mount Nebo Scientific) will conduct a vegetation field study during the 2011 field season”. There is no commitment in Chapter 3, page 3-68. [JCH]

RESPONSE No. 1:

35

9-10

The language, “Although no species identification has been conducted on the 8.69 acres, it is evident from casual observation that grasses make up the predominant vegetation community, either native, or planted many years ago” has been deleted from Chapter 9, page 9-10. Revised copies of page 9-10 are included with this submittal.

RESPONSE No. 2

36

3-68

Page 3-68 of the 3/21/2011 submittal to the Division had this commitment in the first full paragraph of the page. However, Patrick Collins name was not in the commitment because we believe it is inappropriate to commit to one biologist in particular for several reasons. To satisfy the Division, Page 3-68 of Chapter 3 has been revised with the following language in the first full paragraph:

“Biologists representing Carbon Resources, (Patrick Collins, Mt. Nebo Scientific), USFWS and/or DWR will conduct a site visit in the 2011 field season to verify assumptions regarding the wildlife species and habitats described below for current statuses, conditions and other potential wildlife occupants in the project area.” Copies of the revised page 3-68 are included in this submittal.

However, we reserve the right to substitute any qualified biologist to complete this work if Patrick Collins cannot complete the work when we need it and for any other reason.

R645-302-320, Page 9-5, the bulleted topics are not included in nor do they appear to be a part of R645-100 as stated in the bold text on the lower portion of the page. The edited text is incorrect [JCH]

RESPONSE:

This comment may be a hold over from the previous round. The original language was changed from 100 to 320 last round as shown below. It appears to us that 320 is the correct reference. Therefore no additional changes need be made.

9-5

Significant and applicable sections of this OSM report together with sections of Rule R-645-~~100~~ 320 are:

