

# TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

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November 8, 2006

TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor, Project Manager *plg*

FROM: Priscilla W. Burton, CPSSc, Environmental Scientist/Soils, Team Lead *PWB by an*

RE: Post Mining Land Use Change, PacifiCorp, Des-Bee-Dove Mine, C/015/0017, Task #2606

## SUMMARY:

Post mining land use change (PMLU) for the Des Bee Dove permit area was received on August 11, 2006. Federal gas lease #UTU-075667 that includes lands in Section 26 of T 17 S R 7 E brought about this request for PMLU change.

The application requests PMLU change for all 154 acres under permit. However, the Division only applies a post mining land use to disturbed land. There are 36.22 acres of surface disturbed land at the Des Bee Dove mine. These disturbed lands are within T17 S R 7 E, Sec 25 and 26. The application provides documentation of a pending 0.9 acre XTO drill site in SW ¼ SW ¼ Sec 25.

The information provided meets the requirements of the Regulations to support a post mining land use change for **18.42 acres of federal and 7.01 acres of state land** within the 36.22 acre disturbed area to commercial/industrial use only.

The administrative and soils portions of this memo were completed October 12, 2006. Then on October 25, 2006, I was asked to also review the vegetation portion of the application.

## TECHNICAL ANALYSIS:

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### RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

#### Analysis:

The Des Bee Dove Mine permit area is described in the Legal Financial Volume. Figure 1 of the MRP provides a schematic of the permit area. Since that drawing was made, the federal lease SL-066116 has been fully relinquished and 490 acres of federal lease U-02664 have been relinquished.

Though federal coal lease U-02664, PacifiCorp holds right of entry to 1,430 acres in Sections 14, 23, 24, and 26 in T. 17 S., R. 7 E. PacifiCorp owns 1,000 acres of land in Sec 11, 14, 23, and 26 of the same Township and Range. However, the August 29, 2005 Permit documents an area of 154.86 acres as shown on the Permit Area Boundary Map 1-5, Dwg #CM-10658-DS. Access to the mine site was acquired through a U.S. Forest Service Special Use Permit through Sec. 25. The Forest Service Special Use permit includes 100.41 acres of federal lands in Sec 25 and 26. A Bureau of Land Management right of way U-57134 and State right of way #3137 and Surface Use Lease Agreement (SULA) #1195 allow access to and use of land for the sediment pond in Sec 36.

#### Findings:

The information provided meets the requirements of the Regulations.

### PERMIT TERM

Regulatory References: 30 CFR 778.17; R645-301-116.

#### Analysis:

The permit was last re-issued in August 2005 for a 154.86-acre permit area.

#### Findings:

Information provided meets the requirements of the Coal Mining Rules.

## PUBLIC NOTICE AND COMMENT

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

### Analysis:

A notice of post-mining land use change for the entire permit area ran in the Emery County Progress Sept. 12, 19, 26, and October 3, 2006. The public notice included all lands within the permit area although only the federal and state owned lands are being considered for post mining land use change, since the application contains documentation for a likelihood of success of the industrial/commercial land use only within those portions of the disturbed area that are under federal and state ownership and that fall within gas lease areas.

### Findings:

The information in the application meets the requirements for public notice.

## ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

## PERMIT AREA

Regulatory Requirements: 30 CFR 783.12; R645-301-521.

### Analysis:

Map 1-5 shows the permit area and also differentiates between federal, fee and state ownership.

There are 36.22 disturbed acres within the permit area (Ex A of the Reclamation Agreement). [The disturbed acreage is erroneously reported as 23.88 acres in the Division's Inspection Report form.] Within the disturbed area, there are 29.2 acres at the main mine site, 7.01 acres at the sediment pond, and 0.02 acres disturbed by remote portals. E-mail communication from Dennis Oakley (October 27 and 30, 2006) indicates that **the disturbed 29.2 acres at the main mine site is further divided into 18.4 acres federal and 10.8 acres privately held land.**

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The permit area has been reduced to 154.86 acres down from 1,430 acres in June 2001 and down from 2,760 acres in the September 2000 permit (see Legal Financial Volume).

**Findings:**

Information provided meets the requirements of the Coal Mining Rules.

**OPERATION PLAN**

**AIR POLLUTION CONTROL PLAN**

Regulatory Reference: 30 CFR 784.26, 817.95; R645-301-244, -301-420.

**Analysis:**

No change to the existing plan.

**Findings:**

No change to the existing Technical Analysis.

**RECLAMATION PLAN**

**POSTMINING LAND USES**

Regulatory Reference: 30 CFR Sec. 784.15, 784.200, 785.16, 817.133; R645-301-412, -301-413, -301-414, -302-270, -302-271, -302-272, -302-273, -302-274, -302-275.

**Analysis:**

The "Buzzard Bench" gas field includes lands in T17 S, R 7 E Sec 25, Sec 26, and 36, but **excludes privately held lands in T17 S, R 7 E Sec 26.**

XTO Energy Inc. holds UTU-75666 a federal gas lease that includes lands in Sec 25 and the federal gas lease UTU-75667 that includes the lands in Sec 26 of T17 S, R 7 E. XTO's Application to Drill (APD) indicates that a gas well will be located in the SW ¼ SW ¼ Sec 25, on surface managed by the Manti-LaSal National Forest, the same location as the reclaimed access road to the mine site within the disturbed area. In accordance with federal lease UTU-

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75667, there is also a potential for well development in the NESE Sec 26 (within the current disturbed area boundary). XTO also holds a state mineral lease ML-45567 for the NW ¼ Sec 36 T17 S, R 7 E. All of the above information demonstrates a strong likelihood of industrial/commercial development on state and federal lands within the permit area.

This application describes a post mining land use change for the entire 154 permit area as described in the Legal Financial Volume; however, the 40 acres of fee land are not included in either state or federal mineral leases. **Therefore, the 18.42 acres of federal and 7.01 acres of state land is recommended for a change in post mining land use to industrial/commercial, as there is a reasonable likelihood of achieving this post mining land use. [On a permit area basis this would be 100.41 acres federal and 13.88 acres of state land.]**

There was no information included with the application to show a route across the drainage and past the former operations pads for commercial use of the site (i.e. the Pageant route.) or to otherwise support the likelihood of achieving an industrial/commercial use of the 10.8 acres of privately held ground.

A recreational use was alluded to in meetings (OHV use) but there was no information in the application to substantiate that use on the privately held ground. The plan does not describe OHV access across federal land for OHV riders to reach the privately held ground.

**Findings:**

The information provided would meet the requirements of the Regulations to support a post mining land use change for **18.42 acres of federal and 7.01 acres of state land** within the 36.22 acre disturbed area to commercial/industrial use. The remainder of the disturbed acreage should remain wildlife/grazing. Therefore, the 18.42 acres of federal and 7.01 acres of state land is recommended for a change in post mining land use to industrial/commercial, as there is a reasonable likelihood of achieving this post mining land use, if the following deficiency is addressed:

**R645-301-413.300 and R645-301-413.310,** This application describes a post mining land use change for the entire 154 permit area as described in the Legal Financial Volume, however the 40 acres of fee land are not included in either state or federal mineral leases. Therefore, the 18.42 acres of federal and 7.01 acres of state land is recommended for a change in post mining land use to industrial/commercial, as there is a reasonable likelihood of achieving this post mining land use. •There was no information included with the application to show a route across the drainage, past the former operations pads for commercial use of the site (i.e. the proposed change to pageant route) or to otherwise support the likelihood of achieving an industrial/commercial use of the 10.8 acres of

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privately held ground. •A recreational use was alluded to in meetings (OHV use) but there was no information in the application to substantiate that recreational use on the privately held ground. Also, the USFS landowner letter does not describe OHV access across federal land for OHV riders to reach the privately held ground. •Therefore, prior to approval, the application must indicate only the acres of disturbed federal and state land to receive the post mining land use change.

## **REVEGETATION**

Regulatory Reference: 30 CFR Sec. 785.18, 817.111, 817.113, 817.114, 817.116; R645-301-244, -301-353, -301-354, -301-355, -301-356, -302-280, -302-281, -302-282, -302-283, -302-284.

### **Analysis:**

#### **Revegetation: Standards For Success**

There are 1.52 acres of reclaimed disturbed land that fall within the PMLU area that is likely to be developed for XTO's gas well #17-7-25-14. Of those 1.52 acres, 0.9 acres were reclaimed in 2003 and are immediately adjacent to County Road turnaround. An additional 1.62 acres that is separated from the well site by an undisturbed island of land was reclaimed in 1999. Task ID #2625 (Phase III bond release) provides information on the vegetation establishment for these areas compared with the reference area.

### **Findings:**

No changes to the reclamation revegetation section of the existing TA.

## **TOPSOIL AND SUBSOIL**

Regulatory Reference: 30 CFR Sec. 817.22; R645-301-240.

### **Analysis:**

#### **Redistribution**

No change to the existing TA.

**Findings:**

No change to the existing TA.

**STABILIZATION OF SURFACE AREAS**

Regulatory Reference: 30 CFR Sec. 817.95; R645-301-244.

**Analysis:**

No change to the existing TA.

**Findings:**

No change to the existing TA.

**RECOMMENDATIONS:**

The Division should deny the bond release until the above-mentioned deficiency has been addressed.