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**Date:** 1/31/2007 11:23:06 AM  
**Subject:** Des-Bee-Dove Mine / Phase I bond release state decision document package

Hi all:

I just spoke to Wayne & Jim about the above bond release / state decision document & technical analysis package dated Jan. 9, 2007, that OGM sent to Jim Fulton requesting OSM concurrence as the Des-Be-Dove Mine is a federal mine.

There does not appear to be any references in the July 3, 2006, OGM bond release inspection report, the technical analysis (pages 7 & 13 primarily), nor the administrative overview-chronology-findings or other contents of the state decision document, to enable our review to ensure compliance with R645-301-880.310.

For Phase I bond release approval this rule requires: "At the completion of Phase I, after the operator completes the backfilling and regarding (which may include the replacement of topsoil) and drainage control of a bonded area in accordance with the approved reclamation plan....."

The above bond release inspection report indicates: "No diversions remain. No sedimentation ponds or impoundments remain. No 'Other sediment Controls ' remain.

The sediment pond has been removed and the area reclaimed. There are no effluent limitations that apply to this permit." These statements do not demonstrate the drainage control requirement in the above rule.

The hydrologic reclamation plan portion of the technical analysis (page 13), and the sediment control reference on page 7 do not demonstrate the drainage control requirement of the above rule.

Contrary to the above inspection report findings noted, there are other sediment controls in place, and there are effluent limitations that apply to the permit area. These are the implementation of alternative sediment controls (as best management practices) through an approved sediment control plan based on sediment modeling to demonstrate that average annual sediment yield is not increased over pre-mining conditions. Please reference the attached November 2, 2006, letter from DFD to OGM describing the 40 CFR effluent limitations adopted on January

23, 2002, under ( Subpart H-Western Alkaline Mine Drainage Category).

The Subpart H requirements are required by OGM rules at R645-301-742.112 which state " Meet the effluent limitations under R645-301-751" and .751 requires compliance with the 40CFR Part 434 criteria including Subpart H noted above.

OGM rules do not allow the removal of approved UPDES outfall structures without the Utah UPDES authority approval through the Subpart H process.

Please provide additional references and documentation that the Des-Bee-Dove reclamation areas are in compliance with the Phase I drainage control requirements of the rules noted above.

Henry Austin

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November 2, 2006

Dear Wayne Hedberg and Steve Christensen:

Please find enclosed the January 23, 2002, EPA Final Rule amending the 40 CFR effluent limitations under "Subpart H-Western Alkaline Mine Drainage Category". I indicated to Steve that I would provide this information to Wayne during our proposed Moab meeting this week.

Since we cancelled I thought I would go ahead and mail it for your use.

Also enclosed is a print out from the OSM Western Region web page (note the site address at the bottom of the print out) describing the process OSM is utilizing to obtain an NPDES Permit under Subpart H. This Subpart H allows for removal of sediment ponds and implementation of alternative sediment control (as best management practices) through an approved sediment control plan based on sediment yield modeling to demonstrate that average annual sediment yield is not increased over pre-mining conditions. OSM utilizes this process on our Western Region Indian Lands coal mining operations through this memorandum of understanding with EPA, Region IX.

We would like to discuss how this EPA final rulemaking, and the resulting approval process for removing sediment ponds and substituting sediment control plans implementing alternative sediment control practices as best management practices is being addressed by OGM.

Please let us know if we can provide you with any more information, and we will look forward to discussing this issue with you at our next team meeting or at your earliest convenience.

Best Wishes.....Henry Austin.

Cc: Howard Strand  
Tonya Blackburn  
Jim Fulton