

# TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

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OK

May 30, 2007

TO: Internal File

THRU: Wayne Western, Environmental Scientist III, Team Lead *WHW*

FROM: Priscilla Burton, CPSSc, Environmental Scientist III *PWB by ar*

RE: Amendment to Reduce Permit Boundary, PacifiCorp, Des Bee Dove Mine, C/015/0017, Task ID #2795

## SUMMARY:

This memo summarizes the administrative information received with the permit boundary reduction amendment on April 20, 2007. Included in the application is a revision of the legal description of the permit area and the disturbed acreage in Appendix G and a revision of Plate 1-1 Coal Ownership Map of the Des Bee Dove Mine Permit Area, and Plate 1-2, Surface Ownership Map of the Des-Bee-Dove Mine Permit Area, to remove 20 acres of land from the permit area, 2.52 acres of which were disturbed by mining activity. These 2.52 acres were reclaimed and received bond release on April 5, 2007. The 20 acres of land being removed from the permit area has an industrial post mining land use.

Errors evident with the application are written as deficiencies below:

**R645-301-112.220**, Page 1-3 of the Legal Financial Volume was apparently revised to show a change of address for the Applicant, but a superceded page was used as the template. Thus, inadvertently, Douglas Johnson is being returned to resident agent status. Revised page 1-3 of the General Contents for the Legal Financial Volume should state that Kenneth Fleck is the registered agent for Energy West. (This change was incorporated in February 2007.)

**R645-301-121.200**, Information in the Division files indicates that 2.52 acres associated with the pumphouse site and the reclaimed haul road. Received Phase III bond release on April 5, 2007. However, Note 1 of the revised Disturbed Area Reconciliation Table (Appendix G) states,

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“Originally the Phase 2 Reclamation Area contained 23.3 total disturbed acres. On 4/5/07 Division of Oil, Gas, and Mining approved Phase III Bond Release on all acres of disturbed land within this area.” The Permittee appears to indicate that 23.3 disturbed acres received Phase III bond release. Note 2 of the same table appears to state that only 0.9 acres received bond release at the pumphouse area. Both statements are incorrect. The Permittee must more clearly state that 2.52 acres associated with the pumphouse site and the reclaimed haul road. received bond release on April 5, 2007. •The legal description for the Des Bee Dove permit area in Appendix G has been inadvertently cut short by the table formatting, please revise to include the full legal description for Section 26.

**TECHNICAL ANALYSIS:**

**GENERAL CONTENTS**

**IDENTIFICATION OF INTERESTS**

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

**Analysis:**

The Legal and Financial Volume, which is common to PacifiCorp’s four Utah mines, contains ownership and control information, names of officers and directors, the name, address and telephone number of the Permittee and operator, Employer I.D. Numbers, and MSHA numbers, together with dates of issuance for coal mining and reclamation operations owned or controlled by the Permittee. [04192005]

The Legal and Financial Volume, Section R645-301-112 indicates that the applicant is PacifiCorp and the operator is Energy West Mining Co. Section R645-301-112 further states that Energy West Mining Co. is wholly-owned by PacifiCorp (an Oregon corporation), which is wholly-owned by MidAmerican Energy Holdings Co. Corporate ownership and control information in Appendix A of the Legal Financial Volume was incorporated October 11, 2006. [05232007]

Page 1-3 of the Legal Financial Volume was apparently revised to show a change of address for the Applicant, but a superceded page was used as the template. Thus, inadvertently, Douglas Johnson is being returned to resident agent status.

**Findings:**

Information provided in the application does not meet the Identification of Interests requirements of the regulations.

**R645-301-112.220**, Page 1-3 of the Legal Financial Volume was apparently revised to show a change of address for the Applicant, but a superceded page was used as the template. Thus, inadvertently, Douglas Johnson is being returned to resident agent status. Revised page 1-3 of the General Contents for the Legal Financial Volume should state that Kenneth Fleck is the registered agent for Energy West. (This change was incorporated in February 2007.)

**VIOLATION INFORMATION**

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

**Analysis:**

MidAmerican Energy Holdings Company purchased PacifiCorp from ScottishPower on Mar 21, 2006. Appendix D of the Legal and Financial Volume was updated accordingly on October 11, 2006. [05312007]

**Findings:**

Information provided in the plan meets the Violation Information requirements of the regulations.

**RIGHT OF ENTRY**

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

**Analysis:**

Total lease acreage for which the Permittee has right of entry is 1,430 acres: 430 acres in federal leases and 1,000 acres in private leases. There are 133.9 acres within the permit area, see the Table on page 1-6.

Page 1-6 of the Legal Financial Volume refers to Appendix G for the legal description of the acreage in the permit area. Unfortunately, the legal description for the Des Bee Dove permit

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area in Appendix G has been inadvertently cut short by the table formatting, please revise to include the full legal description for Section 26.

A Disturbed Area Reconciliation Table in Appendix G itemizes the disturbed acreage by reclamation phase (or project) and remote portals. The total disturbed acreage is listed as 36.06 acres, a reduction of 0.16 acres from the previous 36.22-acre total. Although the applicant intends to remove 2.5 acres of reclaimed acreage from the permit area, during the process, the sediment pond acreage was re-evaluated and increased by 2 acres, as described in the Disturbed Area Reconciliation Table, effectively nullifying the reduction in acreage.

Information in the Division files indicates that 2.52 acres associated with the pumphouse site and the reclaimed haul road received Phase III bond release on April 5, 2007. However, Note 1 of the revised Disturbed Area Reconciliation Table (Appendix G) states, "Originally the Phase 2 Reclamation Area contained 23.3 total disturbed acres. On 4/5/07 Division of Oil, Gas, and Mining approved Phase III Bond Release on all acres of disturbed land within this area." The Permittee appears to indicate that 23.3 disturbed acres received Phase III bond release. Note 2 of the same table appears to state that only 0.9 acres received bond release at the pumphouse area. Both statements are incorrect. The Permittee must more clearly state that 2.52 acres associated with the pumphouse site and the reclaimed haul road. received bond release on April 5, 2007.

**Findings:**

Information provided in the plan does not meet the Right of Entry requirements of the regulations. Prior to approval, please take care of the following minutia.

**R645-301-121.200**, Information in the Division files indicates that 2.52 acres associated with the pumphouse site and the reclaimed haul road. Received Phase III bond release on April 5, 2007. However, Note 1 of the revised Disturbed Area Reconciliation Table (Appendix G) states, "Originally the Phase 2 Reclamation Area contained 23.3 total disturbed acres. On 4/5/07 Division of Oil, Gas, and Mining approved Phase III Bond Release on all acres of disturbed land within this area." The Permittee appears to indicate that 23.3 disturbed acres received Phase III bond release. Note 2 of the same table appears to state that only 0.9 acres received bond release at the pumphouse area. Both statements are incorrect. The Permittee must more clearly state that 2.52 acres associated with the pumphouse site and the reclaimed haul road. received bond release on April 5, 2007. •The legal description for the Des Bee Dove permit area in Appendix G has been inadvertently cut short by the table formatting, please revise to include the full legal description for Section 26.

## LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

### Analysis:

Surface ownership and subsurface coal rights for the Des Bee Dove Mine are shown, respectively, on maps 1-2 (CE-10537-DS) and 1-1 (CE-10536-DS) in Volume 3 of the Des Bee Dove MRP. Legal descriptions are found in Appendix G of the Legal and Financial Volume. [05302007]

### Findings:

Information provided in the plan meets the Legal Description and Status of Unsuitability Claims requirements of the regulations.

## PERMIT TERM

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

### Analysis:

The Des Bee Dove five year permit was renewed effective September 1, 2005. [05302007]

### Findings:

Information provided in the plan meets the Permit Term requirements of the regulations.

## RECOMMENDATIONS:

A few minor details are required prior to approval. Since these details are so difficult to follow on the written paper, I will go over my comments with Dennis Oakley of Energy West tomorrow.