

#4012
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TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

March 7, 2012

TO: Internal File

THRU: Steve Christensen, En Sci III, Permit Supervisor, Team Lead / Task Manager *Sec*

FROM: Peter Hess, En Sci III, Engineering / Reclamation Cost Estimate Review *PHM SWS*

RE: Midterm Review Completion Response, PacifiCorp / Energy West Mining Company, Des-Bee-Dove Mine, C/015/017, Task ID # 4012

SUMMARY:

The Division initiated a mid-term permit review of the Des-Bee-Dove Mine mining and reclamation plan on December 1, 2011. The Division responded with a deficiency list, which the Permittee received on December 31, 2011. One deficiency aired in the Task ID # 3982 list stated that the Permittee must post an additional \$ 41,000 of bond in order to ensure the financial coverage of any remaining reclamation liabilities at the site. The current bond amount which remains is \$ 511,000.00.

This memo will address the adequacy of the Permittee's response, which was received on March 1, 2012.

TECHNICAL ANALYSIS

RECLAMATION PLAN

BONDING AND INSURANCE REQUIREMENTS

Regulatory Reference: 30 CFR Sec.800; R645-301-800, et seq.

Analysis:

General

The Division retains a reclamation bond (bond # 10377512) in the amount of \$ 511,000 to ensure that the remainder of any needed work at the Des-Bee-Dove Mine can be completed. All areas of disturbance have been re-graded and seeded. A remaining acreage of 40.88 acres remains for release.

Form of Bond

The form of bond held by the Division to ensure any reclamation work or repair to the remaining 40.88 acres is a **surety** bond, issued by the Travelers Casualty and Surety Company of America. The Travelers has an A.M. Best rating of "A+".

Determination of Bond Amount

The Division determined in 2010 that the amount of bond necessary to ensure the reclamation of the remaining disturbed area acreage at the Des-Bee-Dove Mine amounted to \$ 511,000.00. This is the escalated dollar amount to ensure coverage through 2015.

The Division re-calculated the reclamation cost from the 2010 estimate to 2011, then from 2011 through 2016, using the appropriate escalation factors.

It was determined that by escalating the 2010 cost estimate of \$ 498,552.00 for one year to 2011 (using the escalation factor of 1.017), the reclamation cost increased by \$ 8,475.00 (total cost of \$ 507,027.00).

The Division must escalate the 2011 cost estimate (\$ 507,027.00) through 2016 using the 2011 escalation factor (again 1.7% or 1.017) through 2016 (or 1.0879). The dollar amount of this escalation is \$ 44,568.00 (total cost through 2016 = \$ 551,598.00).

This total cost less the current bond amount leaves a deficit of \$ 41,000, which is a negative 8 %.

The Permittee's response, dated February 29, 2012 states (See Page 2 of 4, paragraph four) that the remaining bond amount *"is meant to cover the costs for re-vegetation activities. Noting that the vegetation is fully established and the site is substantially stable, it is of the Permittee's opinion that there is sufficient funding left in the surety bond to cover any miscellaneous cost coverage that may be required by the Division in the unlikely cast that PacifiCorp would default on the conditions of the bond and fall into forfeiture...further additions to the (posted/PHH) bond amount are unnecessary."*

The Division conducts monthly inspections at the Des-Bee-Dove Mine. The final reclamation of the site was completed in 2009 (the Mine site sediment pond). The Division has not identified any areas of unstable ground in the disturbed area occupied by the three underground mines. This area consists of very steep slopes which have been shaped to meet the requirements of approximate original contour.

Slides or other potentially unstable areas have not occurred in the time period since the steep slope reclamation was completed (1999), (personal communication with Steve Demczak, DOGM Reclamation Specialist, March 7, 2012). This reviewer concurs that if a slide or other hazard might develop that there is sufficient funding remaining in the current reclamation bond amount to repair the area. Should a slide occur in the upper reaches of the reclamation area (the steep slope area) the Division anticipates that it would be necessary to re-establish machinery access to that area. Re-grading and re-seeding would be the minimum activities to re-occur. A determination as to the cause of the slide or reason for the hazardous condition to develop would also be required. Methods to control seepage or backfill control would require design and installation.

The Division does not feel that PacifiCorp would ever default on the conditions established in the reclamation plan, or the reclamation agreement, prior to forfeiture of the bond. PacifiCorps level of credibility is well established by the manner in which it cooperated with the State of Utah and the Division over the years.

It is impossible to establish what remedial actions would be required to repair damage in the Mine reclaim area. Therefore, the Division cannot determine whether the amount remaining in the bond would be adequate to repair any damage. The Division must base its decision on the integrity of the Permittee, and its history of working with the Division on compliance and permitting actions within the various mining permits issued by the Division for the State of Utah.

As all reclamation work, backfilling and grading and revegetation of the areas disturbed by the Des-Bee-Dove Mines has been completed, and no unstable areas have developed since the completion of the reclamation activities, the Division feels that it is reasonably sound to accept the remaining amount of bond as the total surety required to ensure the repair of any future problems which may develop.

Therefore, it is not necessary for the Permittee to post an additional \$ 41,000 to ensure the reclamation of any future problems within the permit area through 2016.

The remaining bond balance (\$ 511,000.00) is adequate.

Terms and Conditions for Liability Insurance

PacifiCorp / Energy West Mining Company maintain a general liability insurance policy through the Associated Electric and Gas Insurance Services Limited which is renewed on an annual basis, being current through August 28, 2011. Coverage amounts for the each occurrence and general aggregate categories are in excess of the amounts mandated under R645-301-890. Coverage for damage incurred from the use of explosives or subsidence is provided. The cancellation notification clause meets the requirements of the R645 Coal Mining Rules.

RECOMMENDATION:

It is not necessary for the Permittee to post an additional \$ 41,000 to ensure the reclamation of any damaged areas which may develop within the Des-Bee-Dove Mine permit area.

The remaining bond (\$ 511,000.00) is to ensure financial coverage of any needed vegetation repairs; this appears adequate at this time.

The Division should approve the current reclamation cost / bond coverage amount and move toward finalization of the remaining mid-term permit review deficiencies. When addressed, **the Division should finalize the mid-term permit review** for the Des-Bee-Dove Mine, Task ID # 4012.