

0009

C/015/019 Incoming  
#327B



Energy West Mining Company  
P. O. Box 310  
15 No Main Street  
Huntington, Utah 84528

April 27, 2009

Utah Division of Oil Gas and Mining  
Coal Program  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

**Subject: Deficiency Response to the Phase II and III Bond Release of the "Old" Waste Rock Site], PacifiCorp, Cottonwood/Wilberg Mine, C/015/0019, Task ID #2964**

PacifiCorp, by and through its wholly-owned subsidiary, Energy West Mining Company ("Energy West") as mine operator, hereby responds to the above stated deficiency document dated January 27, 2009. The following deficiencies require additional information regarding achievement of success standards and the protocol followed. Reclamation of the 13.81 acre old waste rock site cells and berms were completed in 1994. Phase I Bond Release was approved on July 22, 1999. The Phase II and III Bond Release application was submitted on April 16, 2008.

The responses to the deficiencies are attached. If there are any questions or concerns contact Dennis Oakley at (435) 687-4825.

Sincerely,

Ken Fleck  
Manager of Geology and Environmental Affairs

Cc File

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APR 30 2009

DIV. OF OIL, GAS & MINING

File in:  
C/0150019, 2009, Incoming  
Refer to:  
 Confidential  
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Date: 04/27/09 For additional information

# APPLICATION FOR COAL PERMIT PROCESSING

Permit Change  New Permit  Renewal  Exploration  Bond Release  Transfer

**Permittee:** PacifiCorp

**Mine:** Cottonwood/Wilberg Mine

**Permit Number:** C/015/0019

**Title:** Application for Phase II and Phase III Bond Release of the Cottonwood/Wilberg "Old" Waste Rock Site, PacifiCorp, Cottonwood/Wilberg Mine, C/015/0019, Emery County, Utah

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

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

- Yes  No 1. Change in the size of the Permit Area? Acres: \_\_\_\_\_  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?

**Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) 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.

Kenneth Fleck Kenneth S. Fleck Manager of Environmental Affairs 4/27/09  
 Print Name Sign Name, Position, Date

Subscribed and sworn to before me this 27th day of April, 2009

Luiz Adriana Duran  
 Notary Public



My commission Expires: Utah DEC 21, 2010  
 Attest: State of \_\_\_\_\_ } ss:  
 County of Emery

<b>For Office Use Only:</b>	<b>Assigned Tracking Number:</b>	Received by Oil, Gas & Mining <b>RECEIVED</b> <b>APR 30 2009</b> DIV. OF OIL, GAS & MINING
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## Deficiency Response Document

The following responses to deficiencies are formatted as found in the technical analysis document. They are broken down into logical section headings similar to the R645 regulations. In each section, the regulation number along with the associated deficiency is followed by the Permittee's italicized response.

**R645-301-356.200 - Minimum woody species stocking densities needs to be specified on the basis of local and regional conditions in consultation with the DOGM and the Division of Wildlife Resources or other regulatory agency. The Permittee needs to demonstrate that minimum stocking densities have been achieved on the reclaimed area, and that no trees or shrubs that have been in place for less than two growing seasons are counted toward stocking adequacy as per R645-301-356.232.**

**The Permittee must demonstrate that 80% of the woody species used to demonstrate stocking density have been in place for at least 60% of the responsibility period (or six years). In this demonstration, the Permittee must provide in the bond release application all data and analysis reports from the monitoring years.**

*PacifiCorp complete a sampling program in 2001 that compared the reclaimed cells and berms at the waste rock site to the reference area north of the site. This program found that woody species density of the reclaimed cells and berm (2,219.5 plants per acre) was far greater than the woody species density of the reference area (917.2 plants per acre). Refer to Addendum #1 in attached Addendum Volume.*

*At the time of initial disturbance, 1982, woody species density at the reference area was recorded at 1,495 plants per acre (refer to Volume 2, Page 2-125, Table 4). Current woody species density (as reported in the bond release application for Year Two: 2006 sampling) found that the combined cells and berm were quite high (5,345.3 plants) as compared to the reference area (1,359.7 plants per acre).*

**R645-301-356.110 – A signed statement by a regulatory authority needs to be included in the application describing the current range condition of the reference area and surrounding vegetation.**

*PacifiCorp contacted the Natural Resource Conservation Service (NRCS) to comply with the Division's request. The range condition survey was conducted on April 21, 2009 by Dean Stacy, Rangeland Management Specialist. Mr. Stacy's report is found in Addendum #2 in the attached Addendum Volume.*

**The Permittee included the non-native invasive plant *Bromus tectorum*, (Cheatgrass), in all parameters of vegetation monitoring. The presence of *Bromus tectorum* does not affect bond release, but it should not be included in demonstration of achievement of success standards.**

*Bromus tectorum* is a well established invasive species throughout southeastern Utah. It is found throughout the range surrounding the waste rock site. Open range areas, similar to the waste rock site, are ideal habitats for *Bromus tectorum* to take hold. Most likely the source seed was imported by wildlife or wind.

Energy West talked with Patrick Collins (Mt. Nebo Scientific) who has historically monitored the site as well as gathered the data for the Phase II and III bond release application. As indicated in the Year 1 report, the total living cover for the reclaimed cells and berms was 51.89%. *Bromus tectorum* makes up 6.88% of this cover. In Year 2, the total living cover was 53.30%, with *Bromus tectorum* making up only 2.71% of the total living cover. Comparing the two years could indicate either the *Bromus tectorum* is declining or the sampling took place in a different proximity within the site. However, what the report correctly points out is that *Bromus tectorum* is a statistically insignificant cover source. If the species is excluded from monitoring (using the Year 1 data), it shows a mean cover of 45.01% compared to 30.16% reference area. Without having this information included in the data, this status of *Bromus tectorum* would have never been known.

The Division did not require a weed control program to eradicate all weeds within the site to achieve the standards of success for bond release. The presence or absence of this plant does not affect significantly or sway the outcome of the total living cover results. *Bromus tectorum* is a statistically insignificant plant that has been imported into the waste rock site area.