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# TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

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October 25, 2011

TO: Internal File *DRH*

THRU: Ingrid Campbell, Lead *IC*

FROM: Peter Hess, Environmental Scientist III, Bond Review *PHH by gcs*

RE: Midterm Permit Review, Energy West Mining Co, Cottonwood/Wilberg Mine, Permit #C/015/0019 and Task ID # 3940

**SUMMARY:**

The Division initiated a midterm permit review of the Cottonwood / Wilberg Mine mining and reclamation plan on October 20, 2011. The notification letter to the Permittee indicates in section E that an evaluation of the reclamation cost estimate and posted bond amount is to be performed to ensure adequate coverage for new permit changes, and provide for adequate escalation coverage until 2017 (next mid-term).

This memo will address the adequacy of the approved reclamation cost estimate and the amount of bond posted to ensure the reclamation of the site.

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TECHNICAL ANALYSIS:

## RECLAMATION PLAN

### BONDING AND INSURANCE REQUIREMENTS

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

#### Analysis:

##### General

The last midterm permit review for the Cottonwood / Wilberg Mine was initiated in March of 2007, with the reclamation cost estimate being updated under Task ID # 2758. The updated direct costs and the associated indirect costs with escalation factor was approved and incorporated into the mining and reclamation plan under Task ID # 2830, **MIDTERM-UPDATE AND REPLACE BOND CALCULATIONS.**

The Permittee applied for a Phase II and Phase III bond release for the Miller Canyon Portals (Task ID # 3594, PAP 7/19/2010) and the Fan Portal Area (located in Cottonwood Canyon / Task ID # 3600 / PAP 8/3/2010) in July and August of 2010.

The Miller Canyon portals application contained only a small amount of acreage and it did not contain a request for a bond reduction amount. The original Fan Portal area application requested a reduction in the reclamation cost estimate of \$ 109,791.00. **The Task ID # 3600 Conditional Approval dated October 4, 2010 response requested an incremental bond reduction amount of \$ 85,305.00** (sum of direct costs for earthwork and re-veg / TID # 2830 Midterm / 2007 dollars). Both applications received concurrence from the OSM and the BLM and were approved by the Division on January 12, 2011. The Division authorized a reduction of the required bond amount from \$ 3,252,000 to \$ 2,964,000 (reduction of \$ 288,000 and 7.4 acres of disturbance) on January 18, 2011.

##### Form of Bond

The bond which has been posted by the Permittee is a surety bond issued through the Travelers Casualty and Surety Company of America, which has an A.M. Best rating of A+ as of September 30, 2011.

### **Determination of Bond Amount**

The estimated reclamation cost amount in 2007 was \$ 2,778,407.00. The direct cost reduction released with the Phase II and Phase III Cottonwood Fan Portal Task ID # 3600 amounted to \$ 85,305.00 (total of earthwork and re-veg costs). The new reclamation cost estimate in 2010 (post release of \$ 85,305.00) is now \$ 2,670,241.00 (using unit costs from 2007 R.S. Means).

In order to escalate the reclamation cost estimate to 2016 (the next Division mid-term), the Permittee must submit updated supporting calculations for the demolition, earthwork and re-vegetation using 2011 R.S. Means unit costs for each of the remaining disturbed areas. Therefore, in accordance with the requirements of;

**R645-301-830.140**, updated supporting calculations based on detailed estimated costs, with supporting calculations for the estimates, must be submitted by the Permittee.

**R645-301-830.110**; based on the updated cost sheets provided by the Permittee under R645-301-830.140, the Division will, in co-operation with the Permittee develop a new reclamation cost estimate for 2011. This cost will then be escalated to 2016, with an adjustment of the posted bond amount to complete the requirements of the 2011 Midterm Permit review.

### **Terms and Conditions for Liability Insurance**

The Permittee maintains general liability insurance through the Associated Electric and Gas Insurance Services Limited, and this coverage is renewed annually through the PacifiCorp's Division of Lands and Regulatory Affairs. Coverage amounts of \$ 2,000,000 are provided for each occurrence and general aggregate categories. All other requirements mandated under R645-301-890 are being met by the current coverage.

### **Findings:**

The information provided is not considered adequate to meet the minimum regulatory requirements of this section. Prior to approval, the permittee must submit the following, in accordance with:

**R645-301-830.140**: The Permittee must submit updated cost estimate calculations using 2011 data for the remaining disturbed areas of the Cottonwood / Wilberg coal mine. The

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estimates must be supported by unit cost data from R.S. Means Heavy construction Cost Data or other verifiable means.

**R645-301-830.110:** Based on the updated cost sheets provided by the Permittee under R645-301-830.140, the Division will, in co-operation with the Permittee develop a new reclamation cost estimate for 2011. This cost will then be escalated to 2016, with an adjustment of the posted bond amount to complete the requirements of the 2011 Midterm Permit review.

**RECOMMENDATION:**

The Division needs updated cost estimate sheets to determine a new reclamation cost and bond amount through 2016. No further analysis can be performed until the information is submitted by the Permittee.