



Brian Schweitzer, Governor

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January 23, 2012

Ms. Dicki Peterson  
Westmoreland Savage Corp  
Savage Coal Mine  
P.O. Box 99  
Colstrip, MT 59323-0099

Permit ID: C1984002  
Revision Type: Amendment  
Permitting Action: Deficiency  
Subject: AM2; Amendment Application 00185 – Second Round Deficiency

Dear Dicki:

The Department reviewed Westmoreland Savage Corporation's (WSC) deficiency response received on October 3, 2011 for Amendment Application 00185. Our review determined that there are still several deficiencies which must be adequately addressed prior to the Department being able to determine the application technically acceptable. The deficiencies are listed by rule in the following summary:

General Comment: Throughout the text pastureland and range land have been added as post-mine land uses. As there was originally only cropland and grazing land as land uses, WSC must keep all post-mine land use within the reclamation plan as cropland and grazing land. Please remove any other post-mine land uses. As a further note, if WSC wants to add pastureland as a post-mine land use, a separate alternate reclamation plan must be submitted. Please contact the Department to discuss submittal of an alternate reclamation plan.

Rangeland is not a "land use" please correct throughout the application.

17.24.303(1)(j): Please provide a list of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit as required by ARM 17.24.303(1)(j). Additionally, Exhibit L1, Surface Ownership Map, does not indicate that Savage owns or leases all of the contiguous land as stated in 17.24.303(1)(j) "All lands contiguous to the area are owned or leased by Westmoreland Savage Corporation for mining and or mining related purposes." Please correct this discrepancy.

17.24.303(1)(q): The proposed mine plan in exhibit A-1 shows the disturbance line adjacent to the cut lines around the residence in section 21. It does not appear feasible to reclaim these cuts this close to the disturbance boundary. As the distance from the residence is required to be 300 feet the cuts may have to be moved to accommodate for reclamation. Additionally, does the

proposed mine plan allow for room needed for the new highwall lay back? Please address accordingly.

17.24.304(1)(e) Baseline: Exhibit D-1 - Well OB-1 is also designated Well 001 in the archival database. Please place "001" in parentheses next to OB-1 on the map to indicate that this well has two designations.

17.24.304(1)(e) Baseline: Appendix B, Exhibit B-3 and B-6, Top of Coal Elevation and Overburden Isopach. Please include a table listing the northing, easting, surface elevation and coal depth for each drill hole shown on the maps and used in the construction of the surface/isopach.

17.24.304(1)(i) Baseline: Appendix F does not fulfill the requirements for vegetation surveys in MCA 82-4-222(2) and ARM 17.24.304(1)(i). The community types described in Appendix F consist of the range sites Silty Upland, Thin Upland, and Very Shallow. However, Exhibit F5 shows only the broader category: Grassland. Please update Exhibit F5 with the community types described in Appendix F delineated. The community types present in the control (reference) area must also be shown on the map.

Additionally, disturbed is not a pre-mine vegetation community type. Please update Exhibit F5 with the correct pre-mine vegetation community types.

On Exhibit F5, an area in N ½ NE ¼ Sec 21 is labeled as cropland, but colored as grassland, please correct.

17.24.304(1)(j) Baseline: The application cites Appendix G as the location for the required information. However, Appendix G houses multiple Fish and Wildlife surveys, all of which are greater than 20 years old, but does not address the rule. WSC must review the requirements of 304(1)(j) and provide the specific details required – this can be largely addressed by referencing the Annual Wildlife Monitoring Reports.

17.24.305(1)(n), (x) and (z) Maps: It is observed that Exhibit D-1, Surface and Groundwater Monitoring Sites, in the initial application have been removed from the revised application submitted September 30, 2011. Although the PHC, Appendix O, contains figures in a pdf format that show the monitoring sites, this does not fulfill the rule cited above. Maps in AutoCAD or other projectable, geographic format are required for 1) monitoring sites, 2) test boring holes, and 3) private surface and groundwater supplies (springs and wells –e.g. Figure 7a in Appendix O) that are on or adjacent to the mine; please provide.

17.24.305(1)(y) Maps: Exhibit Q, please place all cross-section locations (A-AA through I-II) on one map. A separate cross section map of the amendment area was developed as a result of previous comments. However, the cross-section location map in the current permit, titled Test Hole and Cross-Section, Exhibit Q, showing the location of sections A-AA through E-EE, is of poor quality, difficult to read and needs to be replaced.

17.24.308(1) Operations Plan: The removal of blasting in the operations plan is acceptable. However, there are several grammatical errors after the modification. Please edit the grammatical errors prior to re-submittal.

17.24.308(1)(f) Operations Plan: The text has been corrected to reference Appendix F, Exhibit F-4. However, the plan will need approval by Richland County. As suggested in WSC's response letter this plan is in development. Please provide the complete plan in your next deficiency response.

17.24.313(1)(b): The "Typical Single Pit reclamation Timetable" has not been modified to comply with contemporaneous reclamation. As proposed it is suggested that up to 8 years may elapse between coal removal and seeding of reclamation. This timetable must be revised to represent typical contemporaneous reclamation.

17.24.313(1)(c) Reclamation Plan: Please provide a new worse case bond calculation along with updated Exhibits J1 and J2. Please use the 5-year permit term during this update calculation.

17.24.313(1)(d): The text is now consistent with "20" however there is reference to 20 degrees and 20 percent. The application needs to be consistent.

17.24.313(1)(e) and 634(1)(g) Reclamation Plan and Reclamation of Drainage Basins: The post-mine drainage associated with the furthest south ramp in Pit 4 must be depicted as concave.

Page 106, Habitat Type table and Exhibit H: The Department appreciates that literature citation for finding a definition of "habitat." As stated in the original deficiency comment, the habitat type table and Exhibit H are still incorrect and are not acceptable. Categories such as "active mining" and "disturbed" are the result of mining and are not habitats in which we should base a reclamation plan. These proposed habitats will not be acceptable in the application. The only use for this information as presented is for discussing wildlife utilization of existing conditions in an Annual Wildlife Monitoring report.

Page 122, Grazing Tolerance: The proposed language is not an acceptable standard for post-1978 grazing land use. Simply stated the language "*a) Westmoreland Savage Corporation has successfully managed grazing on the reclaimed tracts at an intensity comparable to that of pastureland elsewhere in Richland County on sites exhibiting similar soils, precipitation and site characteristics; or,...*" does not meet the requirements of the law and cannot be approved.

17.24.313(1)(h)(i) Reclamation Plan: The entire reclamation plan will be re-evaluated once pre-mine baseline vegetation community narrative and map are provided to the Department.

September 2011 submittal pg 104: Soil substitution will help create vegetation diversity and wildlife habitat. However, the large area proposed for the type of habitat and community would be out of place at the Savage Mine. The mine is in a generally very productive agricultural area with well developed soils. The Department recommends a limit to the number of acres or percent of the area where soil substitution will be used as well as the general location where it

would be used. A maximum of 1% of the reclaimed area would be sufficient. A commitment to proper placement of these areas is also needed (e.g. not in the middle of croplands).

September 2011 submittal pg 112: Reclamation Stand Management: WSC will be required to qualitatively monitor every reclamation stand using the Annual Mining Report: Periodic Revegetation Monitoring form. The stands must be monitored every year until phase II bond release, and at least every third year after phase II. Please update this section to reflect this monitoring requirement.

17.24.313(1)(h)(iii) Reclamation Plan: September 2011 submittal pg 115: The first paragraph in this section has a statement that seed mixes can be found in another section. However the seed mixes were moved to this section in this submittal. Please remove this statement.

September 2011 submittal pg 104: Revegetation Types: WSC proposes a statement allowing Pastureland to be a possibility as a reclamation type should the need arise. The caveat that WSC will fulfill the requirements of MCA 82-4-232(8), ARM 17.24.821, and ARM 17.24.823, in the event it wishes to add Pastureland must be included in the permit. The statement "*Should that event present itself, WSC will obtain the needed documents to fulfill the requirements of MCA 82-4-232(8), ARM 17.24.821 and ARM 17.24.823,*" included in the response to this comment would be sufficient.

Evaluation of Revegetation Success section: This section cannot be evaluated until vegetation mapping of the control area used for evaluation of revegetation success is provided. This information can be included in section 17.24.304. This comment was not addressed in the deficiency response.

September 2011 submittal pg 120: Evaluation of Revegetation Success: The control area permanent transects are not shown on Exhibit C1 as stated in the first paragraph. Please either update the Exhibit to show the transects or remove this statement from the text.

Sept 2011 submittal pg 122: Last paragraph: Please give the exact reference for the location of woody clump plantings discussion rather than the vague statement, "as noted elsewhere in this permit."

ARM 17.24.313 Reclamation Plan and 17.24.764 Cropland Reclamation: State cropland will have a 24-inch soil depth, and other land use types will receive 15 inches. These depths are acceptable; however, the Appendix H-1 soil balance discussion does not show how these depths are obtainable. Please provide a discussion describing how these depths are obtainable.

ARM 17.24.764 states that cropland soil will be replaced at a minimum depth of 24 inches. Due to the 24-inch minimum depth all cropland will be expected to have a minimum 24 inch depth average. To satisfy this condition the soils should be balanced to cover the cropland according to the rule and the other land use types will receive a thickness determined by the remaining soil volume. Additionally, there are more land uses designated in the reclamation plan than show up on the post-mine vegetation map. Additionally, please ensure that only grazing land and cropland are the only land uses throughout the application.

Finally, the area of soil salvage should only be projected based on acres disturbed not all acres within the permit and amendment area. The mine plan is a smaller size and the Department would like to remind WSC that the soil balance calculations will be based on the adjusted disturbance acres not the acres within the permit boundary.

17.24.313, Appendix H-1 Soil Survey, and 17.24.764 Cropland Reclamation: The soil balance discussion in Appendix H-1 explains the conditions existing at the mine. This appendix proposes two soil replacement depths based on the soils projected to be available. The depths are designated as “over 5 inches” for “A” lift and “nearly 17 inches” for “B” lift material. The A lift balances out ok but the B lift balance is closer to 16 inches. These depths are not consistent with the 17.24.313 (Reclamation Plan) and the 17.24.764 (Cropland) the other two sections of the permit where the soil depths are designated. Please make appropriate revisions to the narrative.

17.24.314(1)(b) Plan for Protection of the Hydrologic Balance: P.119 – Discussion of the Etzel North well should be consistent with discussion of this well in Appendix O, the PHC (p. 50). This discussion indicates that the Etzel North well (Pust coal well) has been abandoned, making impacts from mining no longer a concern.

17.24.314(2)(d), 17.24.645(8), 17.24.646(2) Maps, Ground Water Monitoring, Surface Water Monitoring: As required by rule, please indicate the plans and date for reporting annual and semi-annual monitoring results. Contrary to the response from the first round of comments, this is not indicated in Appendix O.

17.24.314(3), Probable Hydrologic Consequences, Appendix O: The Western Alkaline Coal Mining Subcategory only refers to meeting MPDES requirements for reclaimed drainage area and is not pertinent to sediment control during active mining. Please revise the text on this page.

Measurements using ring infiltrometers at other Montana mines have shown that infiltration rates on vegetated reclamation are not significantly different from pre-mine infiltration rates. Please indicate the reasoning behind the comment that infiltration rates in reclamation at the Savage mine will be increased over pre-mine. Is this an assumption or is there evidence to support this statement?

The discussion of the hand dug pit on Peabody Coulee associated with water right 42M 165287 00 needs further explanation. What is the size or volume of this hand dug pit? As stock ponds that do not penetrate alluvium commonly retain water on a seasonal basis, please explain or eliminate the statement that it would be necessary for the pit to penetrate saturated alluvium to serve a functional purpose.

Table 6, Present Surface Water Monitoring Program: Under Purpose, please change NPDES to MPDES.

Table 9. Comparison to Livestock Water Quality Criteria. As livestock drinking water criteria are variable depending upon the agency or other entity publishing the criteria, please indicate the source of the criteria used in Table 9.

Table 11. Groundwater Monitoring Program. Please include potassium without the comment “to be added.” Also, for wells 291T, DG-1 and DG-2, please delete “recommendations pending.” Application 00185 is an opportunity to update the groundwater monitoring plan to include the additional wells and sample analytes.

Table 13 and Table 14: Comparison of Primary and Secondary Drinking Water Standards: Numeric water quality standards for surface water and groundwater are contained in DEQ-7. Groundwater uses are protected pursuant to 17.30.1006. Protection of groundwater for post-mine land uses are addressed by 17.24.643. Given the highly mineralized, background quality of groundwater and the limited uses of shallow aquifers in and adjacent to the Savage mine area, drinking water standards are not an appropriate comparison. Please remove tables 13 and 14.

17.24.314(3) Plan for Protection of the Hydrologic Balance: To reiterate from previous comments: As the narrative in this location is not sufficient to address all aspects of the probable hydrologic consequences (PHC), please refer the reader to the PHC, Appendix O, and eliminate subsequent paragraphs, as they are out of date and the same points are covered more accurately and thoroughly in Appendix O.

17.24.315 Plan for Ponds and Embankments: Permit Text Comments: The original pond designs contained in the text will be made obsolete, but are worth retaining for reference value. Please add text providing a reference in caps under each original design, for example:

**North Pond No. 3**

(Original Design- Retained for Reference Only).

**SEE EXHIBIT Ex D5 FOR CURRENT DESIGN**

- For the new table titled “Sediment Pond and General Design Parameters”: Add the table identifier. Detailed design should be part of the application.
- The row titled “Date of Detailed Design” should provide the date for submittal of detailed designs for the proposed ponds.
- The storage accounting for the north ponds is hard to follow, please make the following changes: Break the row titled “Design Runoff Storage Capacity” into two rows, one titled “Immediate Basin Runoff (acre-ft.)” and another titled “Runoff from/to Adjacent Ponds (acre-ft.)” (The only non-zero values will be for the ponds in series, with the value for North Pond 3 being negative.)
- Insert the new row “Runoff from Adjacent Basins” below the “sediment volume” row. Once the correct values are inserted, the “As-built/Design Capacity” for North Pond 3 will meet its “Total Design Requirement Capacity.”
- Switch the places for the “as-built” and “extra storage” rows.

All new Pond Designs/exhibits

Spillway nomenclature: Please edit the plans to identify spillways consistent with the permit text and ARM 17.24.639. The spillway with the lowest crest elevation is the “Principal Spillway”;

any additional spillway should be labeled "Emergency Spillway". Generally, the drop inlet will be the principal spillway.

Topography on plan sheets: Please identify the contour data being displayed and the date. If the plan is showing proposed re-constructions or modifications (other than maintenance like removing sediment) those proposed contours must be distinguished with an alternate color or otherwise identified.

Provide explanation of any new construction/modification being proposed. All pond plans must be clear on what is being proposed and what is currently in place.

#### Exhibit D10 Proposed South Pond 4

A statement must be added to the design text which includes a "schedule setting forth the dates that any detailed design plans for structures that are not submitted with the general plan will be submitted to the department" as required by ARM 17.24.315(1)(a)(v).

This pond must be in place at such a time during reclamation that ensures the downstream pond has adequate storage and is not out of compliance.

#### Exhibit D 11 Proposed South Pond 5

See Exhibit D10 comments.

As an observation, the proposed pond, at approximately 40 ac-ft, will be quite large and would appear to entail considerable excavation at this location. It may be worth considering a smaller pond here with an additional upstream pond utilizing a ramp or pit remnant.

#### Exhibit D14 Diversion Ditch Pit 3 High Wall

This as-built can be approved once the certification required by NON 11-02-01 is added to the plan sheet. The NON specified the as-built drawing have a PE certify "that the plan was constructed in accordance with the approved plans and the mining laws of the State of Montana."

#### Exhibit D7 South Pond 1

The design seems to indicate the pond meets the proposed performance requirements in its current form. Please correct the spillway nomenclature in both text and plan. Exhibit D9 sheet 2 is titled "South Pond 3 Design Plan and Details". If no changes are being proposed and the plan accurately reflects the as-built condition, the sheet can be PE certified and re-titled "South Pond 3 As-built Plan and Details". Otherwise leave title unchanged and identify the proposed modifications in the text and on the plan.

#### Exhibit D8 South Pond 2

The design submitted states the current pond is not adequately sized.

Please provide a proposed pond design (or other sediment control) that provides sufficient storage to contain the 10-yr, 24-hr worst case design scenario (WCDS) runoff and sediment storage as required by ARM 17.24.639(2) along with the other requirements of ARM 17.24.639.

Please explain any proposed modifications which will be made to the pond.

The WCDS should be changed or more explanation of the regrade sequence provided. The WCDS shown recognizes established vegetation in areas that must be disturbed in order to achieve the PMT. A very specific regrade sequence would be needed for this to be possible.

#### Exhibit D9 South Pond 3

Please correct the spillway nomenclature in both text and plan. Exhibit D9 sheet 2 is titled "South Pond 3 Design Plan and Details". If no changes are being proposed and the plan accurately reflects the as-built condition, the sheet can be re-titled as "South Pond 3 As-Built Plan and Details" and submitted with the engineer's certification that the plan was constructed in accordance with the approved plans and the mining laws of the State of Montana. Otherwise leave title unchanged and identify the proposed modifications in the text and on the plan.

#### Exhibit D5 North Pond 3,

- Please label the drop inlet as the Principal Spillway and correct text accordingly.
- Please designate the emergency (earthen) spillway on the plan view.
- A detail of the centerline profile for the spillway is needed
- A typical spillway cross-section is needed.
- The 25-yr, 24-hr max WSL of 2304.4 shown on the principal spillway section is not consistent with that shown on the emergency spillway cross-section.
- Please provide a bar scale on the plan view.

#### Exhibit D3 North Pond 1

The drop inlet is the principal spillway, please change the text and plan sheets accordingly. Provide bar scale on plan view.

Identify topography source and date – is this as-built or proposed topography? If as-built then: The plan design sheet can be submitted as an "as-built" with the engineer's certification that the plan was constructed in accordance with the approved plans and the mining laws of the State of Montana.

#### Exhibit D4 North Pond 2

Re-label drop inlet as principal spillway on design sheet.

Minimum dam crest elevation on plan topography appears to be 2232' however, section says 2228'.

Identify topography source and date –is this as-built or proposed topography? If as-built then:

The plan design sheet can be submitted as an “as-built” with the engineer’s certification that the plan was constructed in accordance with the approved plans and the mining laws of the State of Montana.

Exhibit D6 Proposed North Pond 4

See Exhibit D10 comments.

17.24.315(b)(iv) Plan for Ponds and Embankments: It is acceptable to not make changes to 315(b) as long as there are no MSHA structures.

17.24.315(a)(v) Plan for Ponds and Embankments: The new proposed language includes the statement “Where ponds cannot be constructed prior to mining disturbance in the drainage....” This is not acceptable as 17.24.639(1)(a) states “Sedimentation ponds, either temporary or permanent, may be used individually or in series and must: be constructed before any disturbance of an area that will drain into the pond takes place.” Please address to comply with 17.24.639(1)(a).

17.24.321 Transportation Facilities Plan: The response does not include a citation to the map that includes access and service roads. Also the response does not include the typical designs for access and service roads as required by 17.24.321(1). Current language suggests that a service road may be 80 feet wide. It is unclear as to why a service road would require this width.

The service road section still contains the “if” clause with respect to stabilizing cut and fills slopes. As stated in the first round, all roads are required by law to have cut and fill slopes stabilized pursuant to 17.24.601(5), please revise the text accordingly.

17.24.322 Geologic Information and Coal Conservation Plan: The narrative is not clear as to what coal is to not be mined. These areas should be depicted on Exhibit R. Furthermore, recent revisions to the mine plan have included adding more mining closer to the power line. Please revise the narrative for the coal conservation plan and Exhibit R. Narrative should indicate when the power line will be moved.

17.24.501(4) and 301(13) General Backfilling and Grading: The post-mine topography must compliment the drainage pattern of the surrounding terrain. If the overall plan for South Drainage #3 remains the same, the operator must straighten the drainages and include additional side tributaries to the east and north similar to pre-mine. As an alternative to straightening the drainage and because there were no comments on drainage basin size in the first round of comments, WSC’s first-round PMT proposal (1/6/2010 submittal) in the south half of Section 21 appears to be more acceptable than that currently under review: highwall reduction area excluded. The first-round PMT in the south half of Section 21, also appears more cost effective and feasible.

Topography from soil stockpile TS-6 is included on the PMT map and should be removed unless WSC intends to have a hill in this location. If WSC desires to have a hill in this location, it cannot be constructed of soil material.

17.24.501(6) and 82-4-231(1) General Backfilling: The permittee must submit "adequate written justification and documentation" for its' proposed delay of reclamation. Numerical cut/fill information would suffice if it is not already accounted for in the bond at which time a reference to the bond in the reclamation section would suffice.

Justification is also required for the out-of-pit spoil stockpile in its' proposed location. This stockpile would be closer to the final mining pass and not delay reclamation if it were located within the highwall reduction zone.

Finally, Appendix Q is confusing and has little for commitments. A request for a variance from a performance standard must be detailed, easily inspected and enforceable. Please revise Appendix Q to include this detail.

17.24.610 Permanent Roads: The response provided indicates that no roads will be retained post-mining. This is contradicting the language in 17.24.321(1)(a) that describes the retention of certain roads. Please be consistent throughout the application.

17.24.642 Permanent Impoundments and Flood Control Impoundments: Review of the Surface lease documents shows that lease commitments stipulate that WSC will leave multiple sediment ponds as permanent structures. Additionally, revised language in 17.24.312 suggests sediment ponds will be retained. This rule is not accurately addressed in the application, please revise to address appropriately.

17.24.645(6) and 17.24.646(6) Ground Water and Surface Water Monitoring: As a reiteration from first round comments, the text refers to Circular DEQ-7 with a publication date of 2004. DEQ-7 has been updated since 2004. Since DEQ-7 will be updated on a regular basis, it would be better to refer in the text to "the latest update of circular WQB-7", or "the most recent edition of circular WQB-7" rather than a specific publication date.

17.24.646(1) Surface Water Monitoring: Exhibit P, Weir Certification and Flow Rating Charts, must be kept in the permit. This information is essential to the interpretation of archival flow data.

17.24.723 Monitoring: The proposed language contradicts the submittal commitment in Appendix L and 17.24.1129. This needs to be clarified.

17.24.723 (1) Monitoring: The vegetation monitoring program is not described. The second paragraph in this section is the same used to describe how WSC will determine the need for management on revegetation areas, but includes no vegetation monitoring program. WSC must submit a full vegetation monitoring program.

Please see comment for 17.24.313(1)(h)(i) regarding vegetation monitoring (annual vegetation monitoring schedules and procedures were updated with the new annual report guidelines).

Exhibits F-1, F-2, and H are illegible, please resubmit.

17.24.762 : The application contradicts itself, at 17.24.762 (2) it states: "Alternative postmining land uses is proposed and will be implemented in accordance with 82-4-232 (7) and (8), MCA, and ARM 17.24.821 and 17.24.823." and then at 17.24.823 it states: "Westmoreland Savage Corporation ~~plan for Alternative Post Mining Land Uses of Crop Land and Pastureland meet the requirements of 17.24.823~~ is not planning to submit any plans at this time."

Please change 17.24.762 to state that grazing land and cropland are the post-mine land uses. If WSC desires to add a different post-mine land use in the future, an alternate reclamation plan addressing 82-4-232(7) MCA, and ARM 17.24.821 and 823 will be submitted to the Department.

#### A1 Approximate Mine Plan

- 4: Revised mine plan has removed the need for the missing ramp:
- 5: Stockpile foot prints are now located on the map.
- 6: The map does not show the approved cut in pit  $\frac{3}{4}$  and must be revised. All other cuts are identified.
- 7: The background layer is not identified.

#### B-3 and B-4 Iso-Slope Maps

Revised B-3 was not submitted in the response.

#### D-1 Approximate Hydrologic Control Plan

1: There are two Exhibits titled D-1 one is the monitoring sites and the other is the hydro control plan. It would be best to rename one of these exhibits. Only partial information is carried on both maps.....for example South Drainage #2-2 has diversion ditches on one map but they are not displayed on the other. The Hydrologic Control Plan must include all diversion ditches.

#### C2 Re-spread depths

1: This map is very valuable with respect to past soil salvage as it identifies when and where soil salvage began. It should remain in the permit as it will be lost if it is removed. It should be re-located as a background information map.

#### H Wildlife Habitat Map

The response is not acceptable as it does not reflect the requirement of ARM 17.24.304(1)(j)(iv). This map is to be pre-mine habitats and as such the categories of active mining, mine facilities, disturbed rangeland, reclamation, and natural re-vegetation are all inappropriate for all lands post-implementation of the Mining laws.

#### R Coal Reserve Data

This response is not accurate as Exhibit R does not correspond to approved mine cuts and coal that has yet to be mined. Also, the comments under 17.24.322 need to be addressed.

#### Appendix G Wildlife Inventory:

- 1) As in other locations within the permit application this appendix has misinterpreted the use of the term "habitat." The requirements of 17.24.304 are to be baseline

information. With that said, disturbance that occurred after initiation of strip mining laws cannot be considered a habitat type. While this is acceptable terminology for annual monitoring as describing areas of use it does not represent "baseline" habitats.

- 2) 17.24.304(1)(j)(iii): The rule requires a description of the wetland habitats. The application has identified that wetlands are present and as such a description is required. If the wetlands are associated with ponds, just state that wetlands are associated with the margin of ponds \_\_\_\_, \_\_\_\_, \_\_\_\_, \_\_\_\_.
- 3) Figure 2.5.1 does not include information through 2010 as suggested in the text.
- 4) The text associated with the mule deer and whitetail deer goes beyond the requirements of the 17.24.304 rule. For simplicity it is recommended to delete all text that describes annual observations. This information can be found in the annual reports if readers wish to locate it.

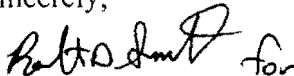
Appendix L- Wildlife Management and Monitoring: The September 30, 2011 response indicates that modifications were made to Appendix L. However, this appendix is not included in the response submittal.

Exhibit C-1: The reclamation area does not correspond to the mine plan as the disturbance is a much larger area. Please submit a revised exhibit C-1 that is specific to the proposed disturbance in exhibit A-1.

Exhibit Q Test Holes and Geologic Cross Section Locations: Exhibit I within the permit does not include section 21, the amendment area. The cross section locations and the new drill holes were identified on Exhibit Q6 Geologic Cross Sections (F, G, H, and I ). Please references to to the proper exhibit or include the new Exhibit Q. The references need to occur in relation to the overburden suitability discussions in 17.24.313 and Appendix B Geologic Inventory.

Please feel free to contact Bob Smith or me if you have any questions.

Sincerely,



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FC: 620.003 (Application 00185)