

Montana Department of  
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

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December 22, 2009

Ms. Dicki Gregg  
Permit Coordinator  
Western Energy Company  
P.O. Box 99  
Colstrip, MT 59323

RE: First Round Technical Comments, Application 00183

Dear Dicki:

The Department has completed the First Round of Acceptability review regarding Application 00184, Area B Amendment. For the most part, the application was acceptable; however, a few deficiencies were identified that need to be addressed before the Department can determine the application acceptable. These deficiencies are as follows:

17.24.303(1)(r): The table on page 19 indicates that a total of 6,428.4 acres will be disturbed by 2018. This would be more than the permitted acres of 5,499.4 indicated in the amendment application and more than the total disturbance of 5,421 acres indicated in the table on page 18. The table on page 18 also indicates that the total permitted acres would be 6,107.4 acres. Western Energy must ensure consistency in the acreages throughout the permit and amendment application.

The production table on page 19 shows a resumption of mining in B-Extension in 2014; however, on page 19a it is stated that this area will remain in cessation until 2018. This difference must be rectified.

The Department questions whether Western Energy has accurately correlated dates of anticipated mining (table on page 19a) and projected disturbance (e.g. in 2013 it is projected that all or part of 6 mine passes will be mined; however, the projected disturbance is only 49 acres (page 19).

Production numbers are not consistent throughout the permit and proposed amendment. Please ensure that this is corrected.

17.24.304(5), 308, 314, 501: Western Energy must review and correct the life-of-mine disturbance limit for Area B to be consistent between the Mine Plan and the Pre-mine and Post-mine topography maps. The difference is subtle, mostly present along the southern perimeter. The disturbance limit associated with PMT and pre-mine contour maps appears to be more relevant to surface disturbance/contour changes, and the mine plan map disturbance limit appears

to be more approximate. The highwall reduction zone perimeter may also need adjustment as it is the same along the southern perimeter as the Mine Plan LOM disturbance.

17.24.304(1)(d): This rule needs to be addressed, the narrative should address Area B in its entirety.

17.24.308(1)(f): The commitments contained in the paragraph on page 101 are unnecessary and this paragraph can be removed.

17.24.313: Western Energy could consider eliminating some exhibits. The PMT and Drainage Boundary maps could be replaced by a map showing both the PMT and the Drainage Boundaries. The Exhibit T maps could be eliminated and replaced with figures depicting the histogram information (this would eliminate 6 maps). References in the text would need to be corrected.

17.24.313(1)(b): The typical reclamation timetable should be replaced with a statement such as: "Mining and reclamation will proceed on the time lines identified in ARM 17.24.304, 308 and 313." Reclamation of special cases such as haul road, ramp roads, mine plant facilities, water treatment facilities, or temporary diversion structures is as follows:

- Haul Roads .....

A second issue regarding this rule is the tracking of the use of bottom ash on roads throughout the mine site. Western Energy must commit to tracking all roads where bottom ash is used and propose a sampling protocol to ensure that areas with unacceptable levels of contamination are not left post-mine. More sampling detail of the facilities areas must also be included. While not currently included in the rules, the Department strongly encourages Western Energy to include a sampling protocol for the facilities area to include EPH and PCB. Theoretically we can wait until final bond release to clear a facilities area; however, if a problem is identified then final bond release could be delayed for a significant amount of time.

17.24.313(1)(g)(ii) – page 125a: The narrative is incomplete.

17.23.313(g)(i) – page 129: The seeding of soil stockpiles with pastureland mixes is not a preferable option as it spreads the introduced species throughout reclamation. Western Energy is requested to remove the use of pastureland seed mixes and commit to use any of the native seed mixes approved in the permit. This will provide a better seed source during final soil laydown.

17.24.313(1)(h)(x) – page 132a: The narrative needs to be updated according to the revised version of 17.24.726(3), which now reads, "at least two of the last four years of the phase III bond period."

17.24.313(1)(j) – Table 21: The number of acres reported in this table is not consistent with the number of permitted acres reported elsewhere in the application. Western Energy must ensure

the permitted, disturbed and reclaimed acres are consistent throughout the application and permit.

17.24.314, 315, 631 and 639. Drainage Control. Western Energy must review and update operational and life of mine sediment control plans for Area B to address proposed increases in the disturbance area for all drainages affected by the proposed amendment. This is particularly relevant to the operational period where the required 10-year, 24-hour runoff volume would be increased, and for current plans which rely on drainage back to the pit which may not be adequate prior to pit backfill.

17.24.321. Extend the ramp roads into the proposed mine passes.

17.24.322(2)(b): Western Energy must describe the location, quantity, and quality of all coal to be left unmined and the reason for not mining it.

17.24.501. The following are comments on the proposed PMT.

1. Section 10. Need explanation for the large drainage along the east section boundary – this does not resemble the pre-mine drainage. There is a large ridge in the NESE portion of the section; where does the material come from? Where does the material come from for the large ridge in the middle of the E1/2W1/2? Western Energy needs to incorporate the revised PMT for the scoria pit (Maintenance Item 12-08/03B-02M). [Dicki, as you and I discussed on 12/18/09, the Department will review your earlier submittal and approve or provide comments in the near future so the scoria pit PMT that you incorporate in this amendment will be approvable.]
2. Section 9. There are two hills that have been previously approved (NWNE and NWNW), where does the material come from? Pre-mine these areas were relatively flat.
3. Section 8. The proposed PMT is somewhat simpler shape than the approved post-mine.
4. The proposed PMT needs to include more side tributaries and slope diversity to better approximate similar pre-mine features and help ensure the prevention of excessive slope erosion. In particular, longer steep slopes need to be compared to pre-mine slopes and replaced with more broken, convex slopes with branched tributaries and corresponding slope facets.

General Comments:

There are 24 soil stockpiles indicated on the B-East map. The Department requests that Western Energy review the stockpile locations, the anticipated use of the material, and the timing of the use to determine if a stockpile(s) will be somewhat orphaned from where it will be needed, if a proposed/approved location will affect timing of reclamation, and if this many stockpiles are actually needed.

Dicki Gregg, Permit Coordinator

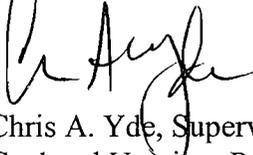
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The Department would also like to remind Western Energy that following the approval of the PMT, an updated revegetation map and a revised bond calculation will need to be submitted to complete the application process.

Please feel free to contact the Department with any questions regarding these deficiencies.

Sincerely,



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FC: 620.112 (Application 00184)