



# WESTERN ENERGY COMPANY

A Westmoreland Mining LLC Company  
138 ROSEBUD LANE • P.O. BOX 99 • COLSTRIP, MT 59323  
(406) 748-5100

RECEIVED

MAR 18 2010

DEQ/IEMB

March 15, 2010

Chris Yde  
Permitting Supervisor  
Industrial and Energy Minerals Bureau  
Department of Environmental Quality  
PO Box 200901  
Helena, MT 59620-0901

**RE: Response Letter – First Round Technical Comments – Application 00184**

Dear Chris:

Included in this submittal are Western Energy Company's responses to your letter dated December 22, 2009, First Round Technical Comments for Area B Amendment. Our responses are as follows:

*IEMB 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 indicated that the total permitted acres would be 6,107.4 acres. Western Energy must ensure consistency in the acres throughout the permit and amendment application....*

WECO Response: The tables on pages 18, 19 and 19a have all been revised. The total permitted area for Area B is 6,114.2 acres and the total disturbance for Area B will be 5,685.0 acres.

*IEMB: 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.*

WECO Response: The table on page 19a has been revised showing Area B-Extension in cessation of operations from 2010 – 2013, with mining resuming in 2014.

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

WECO Response: The production numbers in 17.24.303 have been corrected. Please see tables on pages 18, 19 and the Revised Application Form for Strip or Underground Mining Permit Amendment.

FC: 620.112 (App 184)

*IEMB 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 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.*

WECO Response: The disturbance boundary on Exhibit A-2 Approximate LOM and Exhibit B-3 Approximate PMT has been modified to incorporate the correct disturbance line; please see Exhibits A-2 Area B-East LOM Plan and Exhibit B-3 Area B-East PMT.

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

WECO Response: 17.24.304(1)(d) has been modified to address the Area B permit area in its entirety in accordance to the rule language.

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

WECO Response: The paragraph has been eliminated and replaced with the ARM 17.24.308(1)(f) rule language.

*IEMB 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). Reference in the text would need to be corrected.*

WECO Response: Western Energy would love to eliminate some exhibits and condense information in the existing permit. Exhibits B-1 through B-3 are the Approximate PMT maps and are labeled PMT with Drainage Basins. Exhibits D-1 through D-3 are the hydrological control plan and are labeled Drainage Plan. So at this juncture no exhibits will be removed. Exhibit T the Iso-Slope Maps are being revised for B-East. The histogram information will be provided on a much smaller scale and an exhibit with the requested information is enclosed.

*IEMB 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:*

- Haulroads...

WECO Response: In 17.24.313(1)(b) the timing schedule has been eliminated from the text and the text has been revised to the following, "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 roads, ramp roads, mine plant facilities, water treatment facilities, or temporary diversion structures is as follows:..."

*IEMB: 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 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.*

WECO Response: The use of bottom ash on roads at the Rosebud Mine is an on going issue. WECO has committed to reporting bottom ash usage in the Annual Mining Report starting with in 2009. At this time, WECO would like to defer this portion of the deficiency item until Maintenance Item #11/09-03-03M has been resolved. WECO is filing the BUD Application with the Hazardous Waste Department in the near future and would like to revise permit language once the BUD application is approved. In doing so, rules 17.24.313, 321, 510 and 723 may have language changes and this would decrease unnecessary language revisions as this time.

*IEMB 17.24.313(1)(g)(ii) – page 125a: This narrative is incomplete.*

WECO Response: On page 125a rule 17.24.313(1)(f)(ii) was incomplete. The last sentence has been completed and reads as follows, “Western Energy will continue to work in consultation with the Department to achieve drainage reclamation that will provide for varying channel widths and more diverse drainage basin and valley topography.

*IEMB 17.24.313(1)(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 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,*

WECO Response: In rule 17.24.313(1)(g)(i), in the first paragraph, seventh sentence; the reference to pasture mix has been revised to upland mix and referenced to Table 23A and not 25A.

*IEMB 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.”*

WECO Response: The last sentence in rule 17.24.313(1)(h)(x) has been revised and states, “Various vegetative parameters in comparison with native reference areas or pre-approved standards will be evaluated during at least two of the last four years of the phase III bond period as presented in permit section 17.24.725 through 17.24.733.”

*IEMB 17.24.313(1)(i) – Table 21: The number of acres reported in this table is not consistent with the numbers 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.*

WECO Response: Table 21 on page 134 and 134a have been revised with the correct acres for pre-mine acres and post-mine disturbance acres. These acres match the table on page 18 in 17.24.303.

*IEMB 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.*

WECO Response: WECO is having the drainages and ponds revisited for the Hydrological Control Plan for Area B East. We will submit the revisions in the near future when this work is completed.

*IEMB 17.24.321: Extend the ramp roads into the proposed mine passes.*

WECO Response: Please see Exhibit A-3 Area B East LOM Plan. The ramp roads have been extended into the proposed mine passes.

*IEMB 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.*

WECO Response: In section 17.24.322(2)(b) the location of the coal is described as "...presently mineable by surface technology, underlie Area B.", this wording address Area B in its entirety. WECO recognizes the quantity and quality of coal (McKay Seam) to be left unmined only addressed B-West and the numbers have been revised to reflect B-East and B-West as a whole, 3,993 acres mining area (this number is also found in the table on page 18 listed as Mining Area in 17.24.303) and 48.6 million tons. The quality of the coal that will be left behind has been revised to reflect Area B in its entirety; the McKay sulfur averages 1.38% and the Rosebud sulfur 0.78%. Reasons for not mining the coal from the McKay seam have not changed from the time the Area B Permit was approved to this current permit amendment application filed; "The McKay coal seam is inferior in quality and has no market value at this time."

*IEMB 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 E½W½? Western Energy needs to incorporate the revised PMT for the scoria pit (MI 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 features.*

WECO Response: The PMT has been revised and modified to incorporate the departments' comments. See Exhibit B-3 Area B-East PMT.

*IEMB 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.*

WECO Response: The soil stockpiles have been reviewed in Area B-East. WECO found 22 soil stockpiles on the LOM plan. After evaluating the necessity of the stockpiles for the progression of mining, it has been decided to eliminate three soil stockpiles, leaving 19 soil stockpiles on Exhibit A-2 Area B-East Approximate LOM. An additional note, several piles will be mined through as mining progresses and will not be reestablished once mined through.

If you have any questions, please feel free to contact me at (406) 748-5124.

Sincerely,

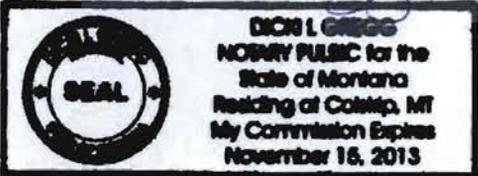
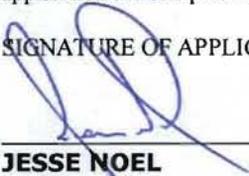


Dicki Gregg  
Permit Coordinator  
dgregg@montana-wcc.com

Enclosures

Cc: Jesse Noel  
Molly Schwend

**REVISED APPLICATION FORM FOR STRIP OR UNDERGROUND MINING PERMIT AMENDMENT**

STATE OF MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY PO Box 200901 Helena, MT 59620-0901 Phone (406)444-4970	APPLICATION FOR STRIP/UNDERGROUND MINING PERMIT APPLICATION NUMBER: <b>00184</b>  Pursuant to Title 82, Chapter 4, Part 2, MCA requiring permits for mining coal and uranium.															
NAME AND ADDRESS OF APPLICANT: (Corporations or other business entity: give names and addresses of principal officers, agents, etc.)  <b>WESTERN ENERGY COMPANY</b> <b>PO BOX 99</b> <b>COLSTRIP, MT 59323</b>  (see page 3 in ARM Section 17.24.303)	INSTRUCTIONS: See rules and regulations pursuant to the above.  LOCATION OF MINE AREA:  <table border="0"> <tr> <td>Section</td> <td>Township</td> <td>Range</td> </tr> <tr> <td><b>8</b></td> <td><b>T1N</b></td> <td><b>R41E</b></td> </tr> <tr> <td><b>9</b></td> <td><b>T1N</b></td> <td><b>R41E</b></td> </tr> <tr> <td><b>10</b></td> <td><b>T1N</b></td> <td><b>R41E</b></td> </tr> <tr> <td><b>11</b></td> <td><b>T1N</b></td> <td><b>R41E</b></td> </tr> </table> County: <b>ROSEBUD</b> (see page 3a in ARM Section 17.24.303)	Section	Township	Range	<b>8</b>	<b>T1N</b>	<b>R41E</b>	<b>9</b>	<b>T1N</b>	<b>R41E</b>	<b>10</b>	<b>T1N</b>	<b>R41E</b>	<b>11</b>	<b>T1N</b>	<b>R41E</b>
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NAME AND ADDRESS OF DESIGNATED AGENT:  <b>JESSE NOEL</b> <b>WESTERN ENERGY COMPANY</b> <b>PO BOX 99</b> <b>COLSTRIP, MT 59323</b>	<table border="0"> <tr> <td></td> <td align="center"><u>Surface</u></td> <td align="center"><u>Mineral</u></td> </tr> <tr> <td>FEE acres to be permitted:</td> <td align="center"><b>5,601.9</b></td> <td align="center"><b>2,954.2</b></td> </tr> <tr> <td>STATE acres to be permitted:</td> <td align="center"><b>512.3</b></td> <td align="center"><b>512.3</b></td> </tr> <tr> <td>FEDERAL acres to be permitted:</td> <td align="center"><b>0.0</b></td> <td align="center"><b>2,647.7</b></td> </tr> </table> (see page 18 in ARM Section 17.24.303)		<u>Surface</u>	<u>Mineral</u>	FEE acres to be permitted:	<b>5,601.9</b>	<b>2,954.2</b>	STATE acres to be permitted:	<b>512.3</b>	<b>512.3</b>	FEDERAL acres to be permitted:	<b>0.0</b>	<b>2,647.7</b>			
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TELEPHONE NUMBER: <b>(406) 748-5100</b>	TOTAL ACRES TO BE PERMITTED: <b>6,114.2</b>															
NAME AND ADDRESS OF SURFACE OWNER: (if different from above)  (see pages 4 & 5 in ARM Section 17.24.303)	Mineral to be mined: <b>COAL</b>  Acres to be disturbed in the 60 months following permit issuance:  (see pages 19a in ARM Section 17.24.303)															
NAME AND ADDRESS OF MINERAL OWNER: (if different from above)  (see page 6 in ARM Section 17.24.303)	Acres to be disturbed in life of operation: <b>5,685.0</b> Expected date of commencement: <b>2010</b> Expected date of completion: <b>2027</b> Estimated reclamation cost (per acre): <b>*Reclamation estimate will be provide at later date when bond calculation is submitted</b>															
CONTRACTORS WHO WILL BE WORKING ON PROJECT: (Show names, addresses and function)  <b>NONE</b>	THIS APPLICATION MUST BE ACCOMPANIED BY: 1. Proposed mining and reclamation plan 2. Maps (see rules and regulations) 3. Bond (see rules and regulations) <b>*will provide bond at later date</b> 4. All materials and information required under the law and rules and regulations pursuant to it.															
SUBSCRIBED AND SWORN TO before me, the undersigned, a Notary Public for the State of <u>Montana</u> this <u>15<sup>h</sup></u> day of <u>March</u> , 2010  	I, the undersigned, hereby certify that the materials and information contained in this application are complete and correct to the best of my knowledge and belief.  SIGNATURE OF APPLICANT  <b>JESSE NOEL</b> <b>ENGINEERING MANAGER</b> Title <b>March 15, 2010</b> Date															