



Brian Schweitzer, Governor

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May 16, 2012

Dicki Peterson
Western Energy Company
Rosebud Coal Mine Area B
P.O. Box 99
Colstrip, MT 59323-0099

Permit ID: C1984003B
Revision Type: Amendment
Permitting Action: Deficiency
Subject: Fourth Round Deficiency Comments for Application 00184

Dear Dicki:

The Department reviewed Western Energy's response to the Third Round of Technical Deficiencies received on January 19, 2012. There are several outstanding deficiencies that must be addressed before the Department can determine Application 00184 technically acceptable. Please provide an adequate response to the following deficiencies:

17.24.303(1)(r): Table 303-3 is missing passes BE16B, BE-22-A1, and BE 28-E. In addition, the sequence in Area B-Extension suggests mining passes BX14 through BX18 in the year 2020. This does not appear to be feasible and therefore must be explained or the table must be revised.

17.24.304(1)(j): Verifying that the details of future monitoring are going to be addressed is acceptable. However, because this is baseline monitoring for an amendment area, there must be description of the data collected and what inferences were made for wildlife in the amendment area. Please include the data and inferences made for wildlife within the amendment area. This can largely be addressed by referencing the respective annual wildlife monitoring reports.

17.24.312: The Fish and Wildlife plan has some good points; however, it does not address the requirements of the rule. The plan must:

- 1) Describe how the applicant will minimize disturbance and adverse impacts on fish, wildlife, and related environmental values during mining and reclamation operations.
- 2) How enhancement of these resources will be achieved.
- 3) How the plan will comply with the endangered species act.

Alternatively, if Western Energy chooses to utilize ARM 17.24.312(1)(c), that it is not practicable to achieve enhancement of wildlife resources, you would have to demonstrate that enhancement is not practicable. However, the "wildlife enhancement" discussion should be relocated to 312(1)(b) and the discussions currently stated under (1)(c) should be moved to (1)(d).

17.24.313(1)(d)(ii): Exhibits T-2a and 2b must be updated. The Department would prefer changing the exhibits to just pre- and post-mine “Slope Histograms” and not include a map. Please provide the slope histograms.

17.24.313(1)(e),(1)(f); 314, 501, 631, and 634: The updated Channel Profile Comparisons in Exhibit ID is still shown with the date from the 2nd round of deficiencies. The incorrect date on this document can lead to confusion in the future regarding to which PMT the profiles are associated with. Please revise the date completed on Exhibit ID.

17.24.313(1)(h): Table 18. Comment 2 states that 135.6 acres of pre-mine pastureland are “to be determined” as to the post-mine land use. Western Energy must indicate what land use these 135.6 acres will be reclaimed as.

The Department recognizes the desire to have flexibility in where fields are planted. However, “cropland” and “pastureland” are land uses as defined in ARM 17.24.301 and it is not appropriate to combine land uses into a category for reclamation. Furthermore, the Department cannot envision how “tbd” could be portrayed on Exhibit C-2, Post Mine Vegetation map.

17.24.313(1)(h): Western Energy is proposing to relocate all of the agriculture pre-mine land use from sections 5 and 10 (owned by WPP LLC) to sections 8 and 17 (owned by Western Energy). At a minimum, Western Energy must provide written approval from the post-mine landowner documenting acceptance of this shift in post-mine land use. A similar situation exists with the pastureland and will also require documentation.

The Department appreciates the direction to Appendix K which does provide approval for alternate reclamation. However, review of the approved alternate reclamation plan versus the proposed revegetation plan confirms that land uses have been shifted from one landowner to another, contrary to the approved alternate reclamation plan. An example of this can be seen in T1N41E section 3 in which the approved alternate reclamation plan has 0.0 acres of cropland compared to the proposed plan which includes cropland.

17.24.313(1)(h)(iii): Western Energy did address the request to add Wyoming big sagebrush to the Upland seed mix. However, this species was moved from alternate species to the main seed list. It was noted to be in Table 20, which does not exist in this submittal, but is labeled in Table 313-4. Please clarify the correct location.

17.24.315: Western Energy submitted a revised hydrologic control plan. As in recent minor revisions regarding this issue for Area A and Area C, the exhibit is missing numerous flow arrows that would depict how surface water flows through the affected area. In addition, the exhibit should be numbered. Also, design and/or as-constructed drawings for Ponds PO-011 and 012 are missing in our copy of permit materials; please include in the deficiency response.

The B-West hydro control plan map must also be submitted.

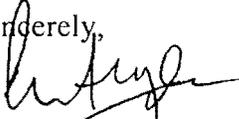
17.24.321: Exhibit A-2 (Mine Plan) should be revised to depict current and potential ramp locations and dragline walkways. This was discussed with Western Energy outside of our third

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round deficiencies comments prior to January's update of the exhibit. Exhibit A-2 may require changing due to issues pertaining to comment 303(1)(r) above.

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

Sincerely,



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FC: 620.112 (Application 00184)