



WESTERN ENERGY COMPANY

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RECEIVED

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DEQ/EMB

March 21, 2013

Chris Yde
Department of Environmental Quality
Water Protection Bureau
PO Box 200901
Helena, MT 59620-0901

Permit ID: C1984003B
Revision Type: Amendment
Permitting Action: Deficiency Response - #4
Subject: Amendment App 00184; Fourth Round Technical Deficiencies

Dear Chris:

After review of the Departments' deficiencies received on May 16, 2012; enclosed are WECO's responses to the Departments concerns.

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.

Response: Please see ARM 17.24.303, Table 303-3 page 303-16. Table 303-3 has been corrected to reflect WECO's expected mining sequence.

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.

Response: Please see ARM 17.24.304(1)(j). The wildlife information has been updated to reflect information from 1972 through 2012 timeframe.

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

FC: 620.112 (AM4)

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).

Response: Please see ARM 17.24.312. The text has been revised accordingly.

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.

Response: Please see Exhibit T-2 Premine and Postmine Slope Histogram.

17.24.313(1)(e),(1)(Q) 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.

Response: Please see Exhibit N-2 Premine and Postmine Stream Channel Profiles.

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.

Response: Please note Table 18 has been renamed Table 313-2. Table 313-2 shows 431.6 pre-mine "Agricultural" acres and 503.1 pre-mine "Pastureland (improved pasture)" acres. These two types total 934.7 acres. Appendix K allows these 934.7 acres to be reclaimed to cropland and/or pastureland in any combination or location as long as the landowners approve and other requirements are met (i.e. slope restrictions for cropland). Table 313-2 shows 527.2 acres of "cropland" land use and 272.0 acres of "pastureland" land use. The intent of comment 2 was to document the possibility of an additional 135.6 acres of "pastureland/cropland" reclamation should the need arise. These acres are currently included in the Upland Grassland (111) reclamation type (2,891.5 acres) in Table 313-2 and Exhibit C-2, Post Mine Vegetation map. Their planned land use is "grazing". If it becomes necessary to change the status of these 135.6 acres, Western Energy will submit a minor revision request to the Department for approval. The comment portion of Table 313-2 has been changed to clarify potential reclamation type/land usage intentions.

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 TI N41 E section 3 in which the approved alternate reclamation plan has 0.0 acres of cropland compared to the proposed plan which includes cropland.

Response: WECO has received verbal approval from George Luther with GNP of the postmine land use shift. We are in the process of procuring a letter from the Great Northern Properties (GNP) landowner, documenting their approval of this post-mine land use shift. As soon as the approval letter is received on the WECO end, it will be submitted to the Department.

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.

Response: For clarification Table 20 has been re-named Table 313-4. With the electronic age upon us, the permits are in the phase of shifting into a more user friendly status. The ARM section is being added to the table label for ease of finding the information 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-O11 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.

Response: The following has been updated on "Exhibit D-2":

- Pond PO-21D has been removed from the hydro control plan and the text. The area has been reclaimed per attached "DEQ to WECO-Ponds 011 012 and 21D.pdf"
- Culverts, ditches, and alternate sediment control locations updated
- Exhibit has been numbered

Please see attached Pond PO-011 as-constructed drawings "1995-12-15-Pond 011-S1.pdf" and "1995-12-15-Pond 011-S2.pdf". Per DEQ letter dated January 20, 2004 Pond PO-011 was reclassified as a small permanent pond (See attached "DEQ to WECO-Ponds 011 012 and 21D.pdf" and "WECO to DEQ-Ponds 011 012 and 21D.pdf").

Please see attached Pond PO-012 as-constructed drawings "1995-12-15-Pond 012-S1.pdf" and "1995-12-15-Pond 012-S2.pdf". Per DEQ letter dated January 20, 2004 plans for reclamation for Pond PO-012 were approved (See attached "DEQ to WECO-Ponds 011 and 012.pdf" and "WECO to DEQ-Ponds 011 and 012.pdf"). These reclamation modifications have not been implemented and the as-constructed drawings are the most up-to-date drawings of the pond. As mining proceeds in Area B, Pond PO-012 will be removed and reclaimed to the approved design.

WECO is in the process of completing and submitting revisions to Area B-West and an updated hydro control plan will be submitted as a part of that revision.

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 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.

Response: Please see Exhibit A-2 Area B-East Approximate Mine Plan. The ramp locations and dragline walkways have been added to the mine plan.

Please note that in the ARM text is being formatted to the electronic standards. The tables and figures are being re-labeled under the section they are related to for a more user friendly document. I am working diligently on updating references in the text and may not have found all references as of yet, please be patient as the document is very large. Also an updated bond calculation will be provided to the Department as soon as the bond calculation is completed.

WECO is eager to finalize this application by July 1, 2013. If you have any questions, please contact me at (406) 748-5124 so questions maybe answered in a timely fashion.

Sincerely,



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Enclosures: All ARM Sections
Pond PO-011 as-constructed drawings 1995-12-15-Pond 011-S1.pdf and
1995-12-15-Pond 011-S2.pdf
Pond PO-012 as-constructed drawings 1995-12-15-Pond 012-S1.pdf and
1995-12-15-Pond 012-S2.pdf
DEQ Correspondence to WECO Ponds 011 012 and 21D.pdf and WECO to
DEQ-Ponds 011 012 and 21D.pdf
Exhibits: A-2 Approximate Mine Plan
B-2 Approximate Postmine Topography
D-2 Approximate Hydrology Control Plan
N-2 Premine & Postmine Stream Channel Profiles
T-2 Premine & Postmine Slope Histogram

cc: Rusty Batie
Ed Buchholz