



WESTERN ENERGY COMPANY

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January 19, 2012

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

Permit ID: C1984003B
Revision Type: Amendment
Permitting Action: Deficiency Response - #3
Subject: Amendment Application 00184; Third Round Technical Deficiencies

Dear Chris:

Included in this submittal are Western Energy Company's responses to your letter dated March 14, 2011 Third Round Technical Comments for Application 00184. Please see the following:

IEMB 17.24.303(1)(r): There appears to be inconsistencies within the statistics depicted for "Total Coal Permitted" and "Total Coal Mined" on page 18. Rather than make corrections, the Department recommends deleting these statistics from the table.

WECO Response: The tables in 17.24.303(1)(r) has been named. Please see Table 303-1: Area B Total Permitted Acres on page 303-22. WECO proposes to show only the total permitted acres and total disturbance in this table.

IEMB 17.24.303(1)(r): As per a phone call between Department and Western Energy staff, the mine sequence data on page 19a and associated maps require a through review and changes. At a minimum, the following must be changed.

- All mine passes must be numbered and accounted for on the maps and tables.
- The mine passes are not mined continuously and in sequence. The approximate location of all end walls must be clearly marked on the maps and the table must depict a feasible sequence.

Please work with the Department (Peter Mahrt and Tom Golnar) as the tables are corrected for review of the revised tables prior to submittal of your deficiency response.

WECO Response: The tables in 17.24.303(1)(r) has been named. Please see Table 303-3: Approximate Mine Passes with Approximate Mining Dates on page 303-24. This

table and Exhibit A-2 Area B-East Approximate Mine Plan have been revised to be make the mining sequence easier to follow.

IEMB 17.24.304(1) WECO is citing a rule that does not exist on pages 36 and 37 (17.24.304(1)(e)(a) and (b) are incorrect. And again on page 38, 39, and 40 the rule citations do not correspond to the text.

WECO Response: Please see section 17.24.304. WECO's Area B baseline information was conducted in the late 1970's to early 1980's and was approved with the ARM of that time. After review of the ARM of 1980; the rules do not align directly with the current ARM, I have revised the citations as much as possible without directly changing the baseline information previously approved.

IEMB 17.24.304(1)(k):

- 1) The first paragraph discusses the soil survey; however, the year of the soil survey is not included. Insert the year(s) the survey was carried out.
- 2) There are multiple tables representing soil salvage acreages. In section 17.24.304(1)(k) Table 15: "Area B extension; Premine Soil Acreages, Salvage Depths and Volumes" (Page 81a) totals the pre-mine soils for Area B extension with their respective acreages and volumes. Additionally, the soil resource report Volume I contains the above mentioned table and an earlier table "Area B (7, 8, 17, 18) Premine Soil Acreages, Salvage Depths and Volumes". The total of the acreage column in the Area B extension table is 2,012 ac and for the Area B (7, 8, 17, 18) table the total is 1,627 acres. Neither of these acreage numbers are consistent with any of the disturbance acres indicated in 303(1)(r) application 184, page 18 (unnamed table). The page 18 table has total Area-B disturbance listed as 5,421 ac and B-East listed as 3,316 ac. The acreages appear to need some updating and validation. The following clarification is required.
 - i. Validate the acreages for soil salvage and disturbance then updating the soils tables to match the other sections in the permit.
 - ii. Create one table to represent all Area B mining, and locate it either in the permit or the soil resource volume. Additionally, reference the table appropriately.

WECO Response: After reviewing all the soil survey information in all the WECO permits (C1986003A, C1984003B, C1985003C, C1986003D) and the Soil Resource Data Volumes, at this point I have not found the original date of the soil survey. To the best of my knowledge, the survey was conducted in the late 1970's possibly the early 1980's.

WECO proposes turning a separate minor revision to update the soil information in the C1984003B permit. Our scientific specialist would like more time to review the current information and possibly confer with with our consultant to have the most accurate information possible in the permit.

IEMB 17.24.304(1): The application must clearly identify what area is included in the baseline wildlife monitoring plan for the amendment area. Currently the proposed

amendment is covered within the annual wildlife monitoring area depicted in the 2009 annual report. However, the spatial extent of the monitoring plan is not permitted, i.e. buffer zone. This can be accomplished by updating E-2 or by making a reference in 304(1)(j) for the reader to refer to ARM 17.24.723. Then a commitment must be made in ARM 17.24.723 that the area to be surveyed is identified in the annual wildlife monitoring report. This text should also make it clear what buffer (year of annual report) is being applied to the amendment application number. This is necessary to verify that the appropriate baseline was conducted for the amendment.

WECO Response: WECO proposes turning a separate minor revision to update the wildlife information in the C1984003B permit. WECO would like to work with the Department in updating our monitoring program and at that time will update Exhibit E-2 with the buffer zone and ARM sections 17.24.304 and 17.24.723.

IEMB 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 so chooses, a case under 17.24.312(1)(c) that is not practicable to achieve enhancement of wildlife resources could be proposed. Western Energy would have to demonstrate that enhancement is not practicable. Additionally, the “wildlife” enhancement” discussion should be relocated to 312(1)(b) and the discussions currently state under (1)(c) are actually (1)(d).

WECO Response: Please see the enclosed ARM 17.24.312, the items listed above have been addressed.

IEMB 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 postmine “Slope Histograms” and not include a map.

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

IEMB 17.24.313(1)(e), (1)(f); 314, 501, 631, 634: Western Energy made several PMT and related drainage profile adjustments that largely address the surveyed profile problems listed. Western Energy must commit that during final regarding they will include similar PMT adjustments as needed mine-wide, including un-profiled larger and smaller tributaries, to ensure appropriate drainage profiles and cross sections, and to provide valley bottom, terrace and slope characteristics similar to premining.

Note that the Area B East (and B-Extension) Channel Profile Comparisons should include ID (as in other Western Energy permits). The recent submittal also needs to

include an appropriate date of revision (currently 3/11/10, same as the last version, and prior to the August 2010 PMT revisions.)

WECO Response: Please see the Area B-East Channel Profile Comparisons.

IEMB 17.24.313(1)(h): Table 18 proposes significant shifts in post mine land use (agriculture and pastureland). These proposed shifts require, at a minimum, approval from the post-mine landowner. Alternatively, Western Energy can reclaim the land use as it existed pre-mine.

WECO Response: This subject has already been addressed in Appendix K– Alternate Reclamation Plan Cropland and Special Use Pasture as approved by the Department. Written landowner approval for these changes can be found in Appendix K.

IEMB 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.

WECO Response: The “tbd” designation only applies to location. The location will be determined by potential expansion areas dominated by introduced grasses such as smooth brome. The primary land use for all pastureland is “Grazing” but it may also be cut for hay, a “Crop”, at the discretion of the operator, hence a different land use from strictly grazing.

IEMB 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 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 be also required documentation.

WECO Response: Written landowner approval for these changes can be found in Appendix K – Alternate Reclamation Plan Cropland and Special Use Pasture.

IEMB 17.24.313(1)(h)(i): Page 130d. If Western Energy wishes to remove their commitment to plant deciduous species in the silver sagebrush vegetation type (commitment under the objectives heading), then they must commit to plant more acres in the deciduous tree/shrub vegetation type.

WECO Response: Western Energy will plant deciduous species in Lowland Silver sagebrush vegetation communities.

IEMB 17.24.313(1)(h)(i): Western Energy must commit to creating wildlife enhancement features on all post-mining land uses other than wildlife post-mining land use. This includes cropland, pastureland, and grazing land.

WECO Response: Western Energy commits to planting clumps of shrubs as wildlife enhancement features for all post-mine land uses. The following statement is included under the seeding portion of each post-mine grazing land use vegetation type: “In

addition to the shrubs in the seed mix, shrub-clump wildlife enhancement features will be established on 5% of the reclamation type by hand planting tubelings and/or bare root stock of species listed above under “Objectives” at a density of 300 plants per acre in a mosaic of small patches spaced unevenly across the reclamation type.” A modified statement is included for cropland and pastureland types since establishment of shrubs within the types is not desirable: “In addition, shrub-clump wildlife enhancement features will be established in adjacent vegetation types on an area equal to 5% of the pasture type by hand planting tubelings and/or bare root stock of species listed above under “Objectives” at a density of 300 plants per acre in a mosaic of small patches spaced unevenly across the reclamation type.”

IEMB 17.24.313(1)(h)(iii): Western Energy did not address the second round request to add Wyoming big sagebrush to the Upland seed mix. The comment stating, “For all post-mine vegetation types except lowland and upland grasslands, Western Energy must specify the shrub seed and transplant amount (plant per acre), species, and method of planting. For example, the permit states that in the upland skunkbush sumac type, the conifer seed mix will be seeded at 50% of the normal rate. There is no discussion of how shrubs will be established on the site, what species will be used, or how dense they will be seeded or planted,” also was not addressed.

WECO Response: Wyoming big sagebrush has been moved from the Upland Mixture – Substitute Species list to the Upland Mixture (Table 20). Discussion was added to each post-mine vegetation type “Seeding/Planting” section regarding shrub seed and bare-root/tubeling plantings.

IEMB 17.24.313(1)(h)(iii): Please stop the use of the “#” symbol to mean both pounds and number when referring to seed mixes. For example, the seed mix tables it is used to mean number of seeds, and in Table 23B, Seed Rate Formulas, it is used to mean pounds and number.

WECO Response: The abbreviation “lbs” for pounds has been substituted for the “#” symbol in the appropriate places.

IEMB 17.24.313(1)(h): The Area Best Postmine Vegetation Plan is on a different topography than the proposed PMT and therefore cannot be evaluated; please correct this situation.

WECO Response: The proposed PMT contour has been placed under the Post-mine Vegetation plan.

IEMB 17.24.315: Western Energy’s response to the second round of technical deficiencies indicated that a revised/updated Hydrologic Control Plan and associated materials would be submitted when the Post-mine Topography is approved. The Department found no problems with the proposed PMT; therefore, please submit the updated materials. Please ensure that all aspects of the rule are properly addressed including proper certification of drawings.

WECO Response: Please see the enclosed Exhibit D Approximate Hydrologic Control Plan and Table 31 in ARM 17.24.315. At this time no modifications to the ponds are proposed.

IEMB 17.24.322(a)(ii): The response was adequate but there are only 46.2 million tons of reserves identified and the table on page 19 depicts a total mine production of nearly 60 million tons. Once the correct numbers are identified, the Department also requires an estimation of the reserves and production added as a result of the amendment – this should be made by the Area B-east and Area B-West. Additional reserves are the foundation of the amendment and must be addressed in the environmental assessment.

WECO Response: Total recoverable reserves in Area B-East will increase by 12,833,698 tons for a total of 23.5 million tons based within mine plan boundaries which are presented in the App Mine Plan (Exhibit A). The stripping ratio for the additional reserves is 8.1, on average. Please see ARM 17.24.322.

IEMB 17.24.322(2)(b): Western's response is not adequate. The "location, quantity, and quality of all coal left un-mined, accompanied by a detailed explanation of the reasons why the coal will not be mined" must be included in the permit. The annual report does not address this rule.

WECO Response: Total unmineable reserves in Area B-East from the amendment are 309,595 tons. Please see the enclosed section 17.24.322.

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

Sincerely,



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Enclosures

ARM Sections that have revisions are included in this submittal:

ARM	17.24.303	Legal, Financial, Compliance and Related Information
ARM	17.24.304	Baseline Information: Environmental Resources
ARM	17.24.310	Blasting Plan
ARM	17.24.312	Fish and Wildlife Plan
ARM	17.24.313	Reclamation Plan

ARM 17.24.315 Plans for Ponds and Embankments
ARM 17.24.322 Coal Conversation Plan

Exhibits with revisions:

Exhibit A-2 Area B-East Approximate Mine Plan
Exhibit B-2 Area B-East Approximate Postmine Topography with Drainage Basins
Exhibit Area B-East Channel Profile Comparison
Exhibit C-2 Area B-East Postmine Vegetation Plan

cc Jesse Noel
Garrick Goodheart
Wade Steere