



Otter Creek

Mike Rowland
Director, Otter Creek
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November 19, 2012

Mr. Chris Yde
Coal Program Supervisor
Industrial and Energy Minerals Bureau
Montana Department of Environmental Quality
P. O. Box 200901
Helena, MT 59620-0901

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DEQ/IEMB

Permit ID: C2012018
Revision Type: New Permit
Permitting Action: Deficiency
Subject: First Round Completeness Deficiency Response; Otter Creek Permit

Dear Chris:

Otter Creek Coal, LLC is pleased to submit this letter with supporting materials to the First Round Completeness Deficiency, Otter Creek Permit, in response to your letter dated October 15, 2012. Responses to individual deficiency comments are enumerated below:

17.24.303 – Legal, Financial, Compliance, and Related Information

- o The application form does not have the Name of Resident Agent filled out.

Response: The revised form that includes the Name of the Resident Agent is included in this submittal.

- o Safety and Health Identification Number has not been applied for.

Response: The narrative ARM.17.24.303(1)(i) has been changed to reflect that MSHA identification number will be submitted prior to permit issuance..

- o There is no table of contents - this is necessary to finding the information referenced in their narrative.

Response: In the effort to assemble the permit application package, the Table of Contents was overlooked. A Table of Contents is included with this submittal.

- o Please change the proposed public notice to have comments submitted to DEQCoalComments@mt.gov instead of DEQCoal@mt.gov.

Response: A revised Exhibit 303K Draft Notice of Application is included in this submittal.

17.24.304 – Baseline Information / Environmental

- o Please provide the Baseline Reports listed below:
 - 17.24.304(1)(b)-Cultural Site Map and Mitigation Reports

Response: Map 6, Cultural Sites, is included with this submittal as well as digital and hard copies of the supplemental Class 3 Cultural Resources Inventory for the facilities area (Baseline Report 304A5). Because site testing is still in progress and will not be complete until the 2013 field season, eligibility recommendations are pending. Sites previously determined to be eligible are so indicated on Map 6. The narrative at rule 17.24.304(1)(b) is revised to state that for sites determined to be NRHP eligible, mitigation plans will be developed, submitted, approved and completed prior to site disturbance.

- 17.24.304(1)(j)-Fish and Wildlife

Response: Baseline Report 304K, Fish and Wildlife, is included with this submittal.

- 17.24.304(1)(l) Vegetation for facilities including the Agricultural Production Baseline

Response: A supplement to Baseline Report 304J, Vegetation, is included with this submittal. A revised Plate I- Plant Community Type Map, incorporating the entire permit application area including the facilities area, is also included. Also, Baseline Report 304M Land Use, and Baseline Report 304L Soils, have been similarly updated and are included with this submittal.

- Please provide a statement of whether the proposed permit area has been previously mined as this was not evident in this section of the application.

Response: The narrative at Rule 17.24.304(1)(l) has been revised to include the following statement: "No mining has occurred within the permit area prior to the time of this application submittal".

17.24.305 – Maps

- Please provide the Maps listed below or address the concerns associated with the map as stated below:

- 17.24.305(1)(h) Map 6 – Cultural Sites

Response: Map 6 – Cultural Sites is included with this submittal as noted above under Rule 17.24.304.

- 17.24.305(1)(r) Map 13 – Revegetation (Please create a place holder that states this map will be created after the approval of the PMT.)

Response: A place holder for Map 13 – Revegetation Plan containing the requested language is included with this submittal.

- 17.24.305(1)(w) Map 14 – Post-mining Drainage Plan

Response: A place holder for Map 14 – Post-mining Drainage Plan is included with this submittal stating that the map will be submitted after approval of the PMT.

- Map 15 – Drill Hole Locations and Map 16 – Geologic Cross Sections
 - Map 16 is referenced as both Cross Sections and Drill Hole Locations under Section 17.24.322(2)(a). Please include a separate Map 15.

Response: The narrative at Rule 17.24.322 (2)(a)(iv) is revised to correct the error. The narrative now refers to Map 15 as the Drill Hole Location Map. This map was submitted with the original application package.

- 17.24.322(2)(a) references Maps 17A – E Isopach Maps, Map 18 – Knoblock Coal Limits and Bottom Structure, and Map 19 – Coal Recovery Map, however, these are not with the other maps under 305. Please either provide the maps or reference their location.

Response: Narrative 17.24.322(2)(a) erroneously referred to Maps 17A – E, 18 and 19. No coal isopach maps were submitted. An isopach of the overburden was submitted as Plate 2 of Exhibit 322A. The coal recovery map was submitted as Plate 3 of Exhibit 322A and the coal extent map was submitted as Plate 1 of Exhibit 322A. The narrative has been revised to reference these documents correctly. A revised Coal Extent Map (Plate 1, Exhibit 322A) that presents the bottom structure of the Knobloch and its extent in all three coal tracts is included in this submittal and should replace the original.

17.24.308 – Operations Plan

- (f) Noxious Weeds language was referenced with an Exhibit 308E; however, Exhibit 308E was not found in this application package. **A Noxious Weed Management section can be found in Exhibit 313G Revegetation Plan. Please clarify where the noxious weed language is and provide exhibit 308E if necessary.

Response: Exhibit 308E Noxious Weed Management Plan, was inadvertently omitted and is included with this submittal.

17.24.311 – Air Pollution Plan

- Applicant indicates a MT AIR permit is needed. Please indicate that the air pollution permit will be applied for prior to the Surface Mine Permit (SMP) being issued.

Response: Exhibit 311A Air Quality Control Plan is revised to state that the Air Quality permit will be applied for prior to permit issuance.

17.24.313 – Reclamation Plan

- 17.24.313(1)(c): Bond calculation must be submitted upon approval to the mine plan, facilities, and reclamation plan. Please include a statement committing to the submittal of the reclamation bond calculation. The bond must be submitted and approved prior to the permit issuance.

Response: The place holder for Exhibit 313B Bond Calculation has been revised to address timing of the bond calculation submittal.

17.24.325 – Coal Mining Operations on Areas or Adjacent to Areas Including Alluvial Valley Floor: (Special Application Requirements):

- 17.24.325(2)(a)(ii): The Baseline Report 325B – Please provide the Agricultural Production Report.

Response: Baseline Report 325B Agricultural Production is included in this submittal.

General Comments:

- Please provide a complete list of rules 17.24.501-1309 and reference the location where each section is addressed within 17.24.301-327. For Example: ARM 17.24.762 is addressed in 17.24.313(1)(a). The narrative within 17.24.301-327 should include a reference to the appropriate subsection so that there is a direct easy to follow link to the performance standard.

Response: A cross-reference showing the location where each section of the performance standards is addressed is included in the Table of Contents document.

- Otter Creek Coal is reminded that the following must be submitted prior to permit issuance:
 - Insurance Certificate

Response: Otter Creek Coal notes and acknowledges this requirement. Exhibit 303I Insurance Certificate, is a place holder for this and has been revised to reflect this requirement.

A checklist of all the documents described above is attached.

We look forward to a timely determination of completeness for application for Permit C2012018. Please contact me or Heidi Kaiser with any questions or concerns with respect to this letter or accompanying materials.

Sincerely,



William M. "Mike" Rowlands

Attachments

| OTTER CREEK FIRST COMPLETENESS DEFICIENCY RESPONSE CHECKLIST | | | | | |
|---|------------------|-----------------|------------|----------------|---|
| ARM | NARRATIVE | BASELINE | MAP | EXHIBIT | DESCRIPTION |
| None | | | | | Response Letter |
| None | | | | | Master Table Of Contents |
| None | | | | | Master Cross Reference |
| None | | | | | Detailed Table Of Contents |
| 302 | | | | None | Application Form With Resident Agent |
| 303 | X | | | | MSHA Number To Be Provided Prior To Permit Issuance |
| 303 | | | | 303I | Place Holder Stating That Insurance Certificate Will Be Submitted Prior To Permit Issuance |
| 303 | | | | 303K | Change DEQ E-Mail For Submittal Of Comments |
| 304 | | 304A5 | | | CRI Survey Facilities Area |
| 304 | X | | | | Mitigation Plans To Be Developed, Submitted And Approved Prior To Disturbance |
| 304 | | 304K | 2 Plates | | Fish And Wildlife Baseline Report With Wildlife Habitat Map |
| 304 | | 304J | 4 Plates | | Vegetation Supplement 1 Facilities Area With Supplement Plates 1 and 2 And Composite Plates 1 and 2 |
| 304 | | 304L | 2 Plates | | Soils Supplement 1 Facilities Area With Supplement And Composite Plate 1 |
| 304 | | 304M | 2 Plates | | Land Use Supplement 1 Facilities Area With Supplement And Composite Plate 1 |
| 305 | | | 6 | | Cultural Sites |
| 305 | | | 13 | | Vegetation Map Place Holder Stating Submittal When PMT Approved |
| 305 | | | 14 | | Post-Mining Drainage Plan Map Place Holder Stating Submittal When PMT Approved |
| 308 | | | | 308E | Noxious Weed Management Plan |
| 311 | | | | 311A | Statement That Air Quality Permit Will Be Applied For Prior To Permit Issuance |
| 313 | | | | 313B | Placeholder Stating That Bond Calculation Will Be Submitted Prior To Permit Issuance |
| 322 | X | | | | Correct References To Isopach, Knobloch Coal Limits And Coal Conservation Maps |
| 322 | X | | | | Correct Map 15 Drill Hole Map Reference |
| 322 | | | 1 Plate | | Knobloch Bottom Structure And Extent |
| 325 | | 325B | | | Agricultural Production |