



March 16, 2015

Mr. Mike Rowlands
Otter Creek Coal, LLC
Otter Creek Coal Mine
PO Box 7152
Billings, MT 59103-7152

RE: Application Deficiency, Otter Creek Coal, LLC, MPDES Permit MT0031852

Dear Mr. Rowlands:

The Montana Department of Environmental Quality (DEQ) received your February 13, 2015, letter containing additional fee and supplemental information pertaining to your Montana Pollutant Discharge Elimination Permit System (MPDES) application for the above referenced facility. The number assigned to your application is MT0031852. DEQ has reviewed the application for completeness in accordance with ARM 17.30.1364 and found that additional information is necessary before the application can be considered complete.

The following deficiencies were noted with your application and need to be addressed in order for your application to be deemed complete:

1. Form 1, Section D: Construction of sediment pond or other activities in drainages that constitute state waters or Waters of the United States may require a permit under section 404 of the federal Clean Water Act. Has Otter Creek Coal, LLC (OCC) applied for or obtained a 404 permit for discharges of fill material into these drainages? ARM 17.30.1322(6)(f) and 17.30.1310.
2. Form 1, Section D: OCC has applied for an Air Quality permit. Please make note of it in this section.
3. Form 1, Section A, Question 6: If any discharge, or increase in volume of a discharge results from precipitation (or snowmelt) that falls on the facility, then OCC must provide the information required by ARM 17.30.1322(11)(a) using Form 2F. This requirements applies even if the discharge is from the same sediment pond listed in Form 2D. Form 2F is accessible on DEQ's website at <http://www.deq.mt.gov/wqinfo/WPBFForms/Forms1.mcpX>.

The following comments address Form 2D which is applicable to non-storm water discharges from the facility.

4. Form 2D, Section II: Please provide your best estimate of the date on which the facility will begin to discharge.
5. Form 2D, Section III.A: You must provide an estimate of the average flow from each source contributing flow to each outfall and the basis for your estimates. Also, please include a brief description of ultimate disposal of any treatment residual or solid wastes generated from the sediment ponds. Treatment can be described either in narrative form or by listing the proper code for the treatment unit from Table 2D-1 (if applicable).
6. Form 2D, Section III.B: Figure 2-1 estimates that 1053 acre feet/year of water may infiltrate into groundwater from external sediment control structures. Based on the proximity of external sediment control structures to Otter Creek and Threemile Creek, please provide additional information regarding any hydraulic connection between infiltrated water and surface waters. How is infiltration expected to affect the quantity and quality of these surface waters?
7. Form 2D, Section V: The application does not provide the estimated amount (concentration) of the pollutants in the discharge as required. ARM 17.30.1322(10)(e).

Group A: You must provide an estimated daily maximum and average for certain pollutants and the source of information. Data for all pollutants in Group A (from Table TD-2), for all outfalls, must be submitted unless waived by the permitting authority. DEQ may waive the reporting requirements for any of these parameters if the applicant submits a request for such a waiver before or with the application which demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements.

Group B: You must provide the estimated daily maximum and average concentration for certain pollutants in Group B and the source of information. This requirement applies to those pollutants believed to be present in the discharge or are limited by an effluent limitation guideline (ELG) or NSPS or indirectly through limitations on an indicator pollutant. Examples of required Group B pollutant data include pollutants found in ELGs for the industry sector.

In addition to the pollutants identified above, ARM 17.30.1322(10)(e)(l) requires that information be submitted on any pollutant in the effluent that is regulated by a numeric or narrative state water quality standard.

Nondegradation Requirements

DEQ has determined that the discharges included in the permit application constitute a new or increased source under Montana's Nondegradation regulations. ARM 17.30.701-718. In order for the DEQ to determine the level of protection under ARM 17.30.705 and the significance of the discharges under ARM 17.30.715, you must provide the following information:

8. An analysis of the existing water quality of any downstream water which may reasonably be expected to be impacted, including natural variations and fluctuations in the parameters which may be changed as a result of the activity. ARM 17.30.706(3)(d). Water quality data for tributaries to Otter Creek and Threemile Creek are included in the application as Appendices C and D. Please provide additional water quality data for Otter Creek and any other downstream water expected to be impacted by discharges from the mine.
9. Mean monthly flow data for waters identified in Item 8. ARM 17.30.715(1)(a).
10. Any proposed water quality protection practices if additional controls not already described in your permit application are proposed. ARM 17.30.706(3)(e).

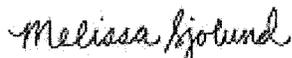
Mixing Zone

Water quality based effluent limitations, including those necessary to address nonsignificance criteria, must be established and monitored at the point of discharge but may be based on dilution in the receiving water if there is sufficient assimilative capacity. DEQ will assume there is no dilution water available at the point of discharge due to the design, location, construction and operation of impoundments in the receiving water. If OCC wishes to request a mixing zone, the type of mixing zone and the information necessary to support the request, including a water quality assessment, must be submitted concurrent with the permit application. Additional information on mixing zones can be found in ARM 17.30.501-518.

The information requested for the nondegradation review and mixing zone determination will not affect the completeness of the permit application under the MPDES rules.

Please be aware that a corporation's responsible corporate officer must certify, sign, and date all applications submitted to DEQ, including the resubmittals required by this letter. If you have questions regarding this letter or issues related to MPDES Permit MT0031852, please contact me at (406) 444-2885 or Paul Skubinna at (406) 444-3080.

Sincerely,



Melissa Sjolund
Water Protection Bureau
msjolund@mt.gov