

MEMORANDUM

TO: File, Straight Renewal of Alpha Coal West, Inc. Eagle Butte Mine, Permit No. 428-T6; TFN 6 1/152

FROM: Kurt King, Senior Analyst *KK*

DATE: August 6, 2015

SUBJECT: Review of LQD First Round Comment Responses

FILED

NOV 13 2015

Jim Ruby, Executive Secretary
Environmental Quality Council

INTRODUCTION

Land Quality Division (LQD) District III received the responses to LQD first round review comments for the subject Straight Renewal application on July 9, 2015 under cover letter dated July 8, 2015 from Ms. Tina M. Hutt, Environmental Compliance Manager.

LQD District III received the initial Straight Renewal application on May 11, 2015 under cover letter dated May 8, 2015 from Ms. Hutt. This submittal proposes to renew Permit 428 from the current T6 term to the T7 term.

Completeness and Technical reviews were conducted using the following LQD documents:

1. Coal Permitting Handbook Format & Completeness, 1995 Edition;
2. Guideline No. 6A-R (Coal Permit Renewal), updated August, 1994;
3. Instruction Memorandum No. 19, Part II, (Assigning Permit and License to Mine Numbers Under the State Program System for Coal Permits Only) updated April, 1995;
4. Instruction Memorandum No. 32 (Procedures for Processing Coal Permit Renewals) updated August, 1995;
5. Instruction Memorandum No. 35 (Outline of Documentation Required for Coal Permits and renewals Under the New cooperative Agreement) updated August, 1995;
6. Instruction Memorandum No. 45 (Applicant Violator System (AVS) Procedure) updated August, 1995;
7. Instruction Memorandum No. 46 (LQD Permitting and Licensing Mechanisms) Part 1.C., updated August, 1995;
8. Instruction Memorandum No. 49 (Coal Permit Content and Review Procedures Relating to Abutting and Overlapping Coal Permit Area Boundaries) updated February, 1996; and
9. Permit coordinator checklist for Coal Permit straight renewal, revised December, 2002.

Review comments contained in the May 22, 2015 e-mail from Craig Hults were consolidated into this review memorandum. The following reviewer's initials are associated with specific comments:

AKK
8/11/15

Craig Hults (CH)
Kurt King (KK)

Conditions to Permit No. 428-T6

Conditions 1, 2 and 3 were implemented upon approval of the last renewal of Permit No. 428-T6 on November 17, 2010. Conditions 1, 2 and 3 will carry forward with this renewal and will be placed on Page 4 of the approved Form 1. The conditions will also be stated in the State Decision Document.

License to Mine 428-L9 was approved on September 30, 2009. The License to Mine 428-L9 will carry forward with this renewal.

There is one Form 11 Major Revision to revise Postmining Topography (PMT) and update the Mine and Reclamation Plan ongoing at this time. The Major Revision is tracked as TFN: 5 3/145.

GENERAL COMMENTS

1. The straight renewal application involves only update and revision of Volume 1 for Adjudication. A few changes may occur to Volume 2 through technical review. There are no proposed changes to Volume 3 through Volume 17. No response is necessary. (KK)
2. No new lands are being brought into Permit 428-T6. No response is necessary. (KK)
3. There are no proposed revisions to water rights information. No response is necessary. (KK)
4. Overall, the renewal document was well presented and easy to review. No response necessary. (KK)
5. First notification letters were sent by LQD to appropriate agencies on June 5, 2015. No response necessary. (KK) LQD received no comment from any agency as of the date of this final consolidated review memorandum. No response necessary. (KK)
6. Index of Changes pages 1 and 2 adequately reflected those changes presented in the Straight Renewal submittal. No response necessary. (KK)

COMPLETENESS AND TECHNICAL COMMENTS

- I. **Adjudication Information**
 - A. Form 1

1. Acceptable. (CH)

Fees

2. Acceptable. (CH) A filing fee in the amount of Two-Thousand Dollars (\$2,000.00) was included with the renewal application. (KK)

B. Form 3

1. Form 3 was not required. (KK)

C. Reclamation Bond

1. Acceptable. The current reclamation bond is \$191,370,000.00. (KK)
2. New Comment: An acceptable reclamation performance bond instrument must be in place before the renewal of Permit No. 428 is approved. No response necessary. (KK)

D. Certificate of Public Liability

1. In review. The Certificate of Insurance policy is currently under review. (KK)
2. New Comment: The Certificate of Insurance Policy No. GL6576413 was accepted as per letter dated July 8, 2015 from Mr. Kyle Wendtland, Administrator of Land Quality Division, to Ms. Hutt. No response necessary. (KK)

E. Appendix "A" (Coal, Mineral and Surface Ownership within Permit Area)

1. Map 1.6-1 and other Maps submitted in this renewal application. Please remove the CONFIDENTIAL statement from these maps since all maps in Permit 428, with the exception of archaeological maps, are public record, open to view by the public, and shall not be considered confidential. Please respond. (KK) **Eagle Butte Mine response follows: *Of the maps submitted in the renewal application, only Maps 1.6-3, 1.9-1, 1.9-5, and 1.9-6 contain the CONFIDENTIAL statement. The statement has been removed and the revised maps are enclosed. The response was adequate and no further response is necessary.*** (KK)

2. Content in Appendix "A" was complete and acceptable. (KK)
- F. Appendix "B" Coal, Mineral and Surface Ownership within ½ Mile to the Permit Area)
1. Acceptable. (KK)
- G. Appendix "C"
2. New documentation, Section 1.8, was not submitted. The documents on file are current. (KK)
- H. Appendix "E"
1. This section is complete. (KK)
 2. Map 1.9-1. Please label Highway 59 on this map. Please respond. (KK) **Eagle Butte Mine response follows: *Highway 59 has been labelled on Map 1.9-1. The response was adequate and no further response is necessary.* (KK)**
 3. Map 1.9-2. There is a series of 7 green dots in the approximate NE1/4 of Section 29 running from the southwest to northeast. Are these supposed to be a pipeline easement? Please respond. (KK) **Eagle Butte Mine response follows: *The green dots mentioned above were left over power poles on a removed power line. They have been removed from Map 1.9-2. The response was adequate and no further response is necessary.* (KK)**
 4. Map 1.9-6. The color of the Disturbance Boundary line (2006 through 2011) can be confused with the color of the Rawhide Mine Reclamation Responsibility line. Please change. (KK) **Eagle Butte Mine response follows: *The Disturbance Boundary line (2006 through 2011) has been changed to a different color (shade of blue) as suggested. The response was adequate and no further response is necessary.* (KK)**
- I. Statement of Compliance
1. Acceptable. (KK)
- J. Identification of Interests

1. The first Applicant Violator System (AVS) Evaluation has been requested. (KK)
2. The first AVS check was run on June 1, 2015 at 4:41 by Natasha Vigil. One outstanding violation was identified including State Civil Penalty 48-N West Virginia Permit No. S301299 3/17/2015. LQD cannot approve the renewal application until the outstanding violation is addressed either through abatement of if the applicant is currently contesting the violation. Please respond. (KK) **Eagle Butte Mine response follows: *Violation 48 imposed on Permit No. S301299 on 3/17/2015 was Abated/Terminated on 5/19/2015. Page 7 of Table 1.10-1 has been revised and is being resubmitted. This violation should clear up during the next AVS check run by LQD.* The response was adequate and no further response is necessary. (KK)**
3. LQD will proceed with processing the renewal application. (KK)
4. The second AVS check will be run after the Application enters the final four individual week's publication notice and mailing. No response necessary. (KK)

II. Supporting Information

- A. Appendix "D-1" - Land Use (Section 2.1)
 1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- B. Appendix "D-2" - Brief History (Section 2.2)
 2. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- C. Appendix "D-3" - Archaeological and Paleontological Resources (Section 2.3)
 1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- D. Appendix "D-4" - Climatology (Section 2.4)
 1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)

- E. Appendix "D-5" - Topography, Geology, and Overburden Assessment (Section 2.5)
1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- F. Appendix "D-6" - Hydrology (Section 2.6)
1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- G. Appendix "D-7" - Soil Assessment (Section 2.7)
1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- H. Appendix "D-8" - Vegetation Inventory (Section 2.8)
1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- I. Appendix "D-9" - Wildlife (Section 2.9)
1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- J. Appendix "D-11" - Alluvial Valley Floors (Section 2.10)
1. Complete. This section was not revised as part of this renewal, however all information in this section remains technically correct. (KK)
- K. Mine Plan
1. All sections are complete. The different sections of the Mine Plan were not revised as part of this renewal, however all information in the sections remain technically correct. (KK)
- L. Reclamation Plan
1. All sections are complete. The different sections of the Reclamation Plan were not revised as part of this renewal, however all information in the sections remain technically correct. (KK)

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REVIEW SUMMARY

Eagle Butte Mine has submitted adequate responses to the LQD review comments. The application is **Complete and Technically adequate**. I will notify Eagle Butte Mine via certified letter that the renewal application is Complete, Technically adequate and suitable for final publication as per W.S. §35-11-406(j). This public notice will occur once a week for four (4) consecutive weeks. Further, Eagle Butte Mine will be instructed to submit the publisher's affidavit to LQD District III.

kk/

xc: Cheyenne LQD Copy

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