



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Wind River Big Horn Basin District
Worland Field Office
101 South 23rd Street
Worland, Wyoming 82401

Issuing the Decision on the Plan of Operations

3809
WYW-165212

July 14, 2011

Certified Mail No. 7008 1830 0002 8678 7665
Return Receipt Requested

DECISION

Mr. Rick Maagstadt :
Vice President of Operations :
Wyo-Ben, Surface Management
P.O. Box 1072 :
Greybull, WY 82426 :

PLAN OF OPERATIONS APPROVED – CONDITIONS OF APPROVAL REQUIRED

DETERMINATION OF FINANACIAL GUARANTEE AMOUNT

The Plan of Operations for the Pit 101T Extension is hereby approved subject to stipulations or Conditions of Approval and operator committed measures needed to implement the **Wyo-Ben Inc. Bentonite Mining Plan of Operation WYW-165212 Hot Springs County, Wyoming** Final EA so as to prevent unnecessary or undue degradation (See attached mitigation appendix inserted below). Wyo-Ben, Inc., must conduct operations as described in the Plan of Operations and in accordance with the following conditions of approval:

Stipulations/Conditions of Approval:

1. The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic, archaeological sites or paleontological localities, or for collecting artifacts or vertebrate fossils. If paleontological, historical or archaeological materials are uncovered during operations, the operator is to immediately stop work that might further disturb such materials, and contact the authorized officer (AO). Within ten (10) working days the AO will evaluate the discoveries and take necessary actions to protect or remove the resource. Decisions regarding the appropriate measures to mitigate effects to such resources will be made in consultation with the operator.

This COA is the standard cultural/paleontological stipulation and clarifies what is necessary to prevent undue & unnecessary degradation of cultural artifacts or

paleontological resources.

BLM-Operator Committed Measures

Monitoring Plan

Wyo-Ben, Inc. will comply with the requirements listed in the DEQ Noncoal rules, Chapter 13, Section 3 (a) (vi), and with those requirements found at 43 CFR 3809.401 regarding the timeliness of reclamation. This is acceptable to the WFO-BLM. Wyo-Ben, Inc. will consider alternative innovative techniques for reclamation in order to achieve bond release. Some of these innovative techniques may include pitting, broadcasting, drilling, or hydro-seeding, the crimping of straw, candy-striping of soil where there is little to spread, seed coating, additives to the soil (including but not limited to mycorrhizae, boron, gypsum, limestone, fertilizers, mulch, grass clippings, wood chippings, weed free manure, polymers, sugar), sagebrush seedlings, fencing, spraying of invasive species before and/or after mining, alternative irrigation techniques, alternative seed mixtures which may include approved non-native species, or other methods that will require BLM and DEQ approval prior to the application.

Interim Management Plan

In the event Wyo-Ben temporarily closes a pit, interim management procedures will be implemented as follows: A berm will be placed in all areas around the pit phase where a highwall occurs. A berm will also be installed at the ramps of the pit to prevent entrance. Temporary water diversions will be made around the pit to prevent water from entering that particular pit phase. Bentonite stockpiles and stockpiles with potential deleterious material (spoil piles, etc.) will be bermed to prevent off-site sedimentation. Ephemeral drainages that have the potential to receive deleterious material will have check dams installed. If soil piles are expected to be in place for an extended period due to the temporary closure of the pit, they will be seeded to prevent erosion and loss of soil. All equipment and supplies will be kept within the disturbance area. Any fuel storage tanks will either have a perimeter berm or placed within an excavated containment pit to control any potential spills. The pit area will be monitored on a regular basis to determine if problems are occurring that need to be addressed.

Spill Management Plan

The operator would immediately notify both the Wyoming Water Quality Division (WQD) of the Department of Environmental Quality and the Worland Field Office of the BLM for any accidental spills of petroleum products involving more than twenty-five gallons. Soils contaminated by smaller petroleum spills would be removed to the operator's Lucerne mill site for natural weathering treatment. Additionally, spills of antifreeze or battery acid products would also be reported to BLM/WQD, and soils treated as explained below. Natural weathering treatment would be conducted by spreading the contaminated soils relatively thin over a designated area at the Lucerne mill, where natural decomposition and bacterial consumption of the contaminant can occur.

No solid wastes, either hazardous or non-hazardous, would be disposed of at these sites. All bulk fuel storage tanks would be bermed for spill containment.

Hydrology

The operator has committed to the practice of using sediment control fabric fences.

Vegetation

Impacts of the Proposed Action to vegetation would require mitigation (required by both BLM and LQD), as per the terms of any approved mining and reclamation plan(s) and as presented in the Plan application and any accompanying mitigation measures. According to Wyo-Ben, Inc.'s proposed Reclamation Plan, a vegetative community dominated by native shrubs and grasses would be reestablished over time.

Financial Guarantee

Financial guarantees are held for the Secretary by the Wyoming LQD as per the supplement to the general statewide Memorandum of Understanding (MOU), Number WY 19, Revised April 1, 2003. (http://web.wy.blm.gov/922/3809_MOU.pdf) Based on the previously submitted reclamation cost estimate, BLM's review of the cost estimate, and consideration of the above conditions of approval, the financial guarantee amount is hereby set at \$155,357.00 for reclamation of the **Wyo-Ben Inc. Bentonite Mining Plan of Operation WYW-165212 Hot Springs County, Wyoming**. You must provide a financial guarantee in this amount using one or more of the acceptable financial guarantee instruments listed under 43 CFR 3809.555.

A copy of the financial guarantee held for the Secretary by WY-LQD must be provided to the BLM Wyoming State Office, Solid Minerals Adjudication, P.O. Box 1828, Cheyenne, WY 82003. That office will issue you a decision as to the acceptability of your financial guarantee. You must not begin activities under the approved Plan of Operations until you receive notification that your financial guarantee has been accepted.

Approval of a Plan of Operations by BLM does not constitute a determination regarding the validity or ownership of any unpatented mining claim involved in the mining operation. Wyo-Ben is responsible for obtaining any use rights or local, state or federal permits, licenses or reviews that may be required for the operation.

Appeal of the Decision - A party adversely affected by a decision may ask the State Director of the appropriate BLM State Office to review the decision. The original BLM decision remains in effect while State Director review is pending, except that the State Director may stay the decision during the pendency of his review. The State Director must receive your request for State Director review no later than 30 calendar days after you receive or are notified of the BLM decision you seek to have reviewed.

Director
BLM Wyoming State Office
PO Box 1828
Cheyenne Wyoming 82003

Your request for State Director review must be a single package that includes a brief written statement explaining why BLM should change its decision and any documents that support your written statement. Mark your envelope "State Director Review." You must also provide a telephone or fax number for the State Director to contact you. Once the State Director issues a decision, it replaces the original BLM decision, which is no longer in effect, and you may appeal only the State Director's decision. If the State Director does not make a decision within 21 days on whether to accept your request for review, you should consider your request for State Director review declined, and you may appeal the original BLM decision to OHA. The State Director's decision will be effective immediately and remain in effect, unless a stay is granted by OHA.

An adversely affected party may appeal the State Director's decision to OHA under part 4 of this title. An adversely affected party may also bypass State Director review and directly appeal a BLM decision to the Office of Hearings and Appeals (OHA).

In order for OHA to consider your appeal of a decision, you must file a notice of appeal in writing with the BLM office where the decision was made. Your written appeal must contain: your name and address and the BLM serial number of the notice or plan of operations that is the subject of the appeal. You must submit a statement of your reasons for the appeal and any arguments you wish to present that would justify reversal or modification of the decision within 30 calendar days after filing your appeal. All decisions go into effect immediately and remain in effect while appeals are pending before OHA unless OHA grants a stay.

If you have any questions, please give me a call at 307-347-5178 or contact Marilyn Wegweiser Geologist at 307-347-5248 or 307-347-4135.

Sincerely,

Don Krump
Assistant Field Manager, Minerals & Lands

cc: WYSO/921
DEQ, Mark Moxley