



STATE OF
COLORADO

Simmons - DNR, Leigh <leigh.simmons@state.co.us>

C1981022, TR-78, Initial Adequacy Review

1 message

Simmons - DNR, Leigh <leigh.simmons@state.co.us>
To: Doug Smith <Doug.Smith@oxbow.com>

Wed, Apr 8, 2020 at 4:53 PM

Attached

Leigh Simmons
Environmental Protection Specialist



COLORADO
Division of Reclamation,
Mining and Safety
Department of Natural Resources

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TR78AdequacyReview_1.pdf
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Doug Smith
Oxbow Mining, LLC.
PO Box 535
Somerset, CO 81434

April 8, 2020

Re: Elk Creek Mine (C-1981-022)
TR-78, Initial Adequacy Review

Dear Mr. Smith,

The Division has completed an initial review of the materials submitted by Oxbow Mining, LLC. (OM) with the TR-78 application. Please review the following comments on the adequacy of the application and address the items in bold.

Rule 1.04(71) – Definitions, Land Use

The proposed revised Post Mine Land Use maps (Maps 2.05-M8) were compared with the Existing Topography and Land Use maps (Maps 2.04-M1), and other maps from the currently approved Permit Application Packet (PAP) as necessary. The comparison shows that most of the areas designated as “Industrial/Mining” on the revised Maps 2.05-M8 lie within areas identified as “Industrial/Mining” on the existing Maps 2.04-M1. Exceptions are:

- a. CDOT Rock Storage Area
- b. Delta Montrose Electric Association Site
- c. Rail Loadout Facility (that is, the loadout for the West Elk Mine)
- d. Intake Water Pumphouse and Intake Gallery
- e. Methane Project Bear Creek

Sites a-c are in active use by entities other than OM, and are on land either owned by that entity or leased by that entity from OM for that specific Industrial/Commercial purpose. Site d is a key component of the water treatment system that provides water for the town of Somerset and is a permanent facility, as described on page 2.05-55 of the currently approved PAP. The postmining land use of site e was approved with TR-76.

Two sites have been re-designated on the proposed revised Post Mine Land Use maps (Maps 2.05-M8) as “Landowner/Public Access”:

- f. Upper Hubbard Site
- g. Hubbard Creek Culvert



The land uses of both sites f and g were previously identified as “Industrial/Mining” on both Maps 2.04-M1 and 2.05-M8.

1. Rule 1.04(71) defines the term “Land use” as a specific use or management-related activity, rather than the vegetation or cover of the land. The rule further defines 10 categories of land use, but does not include “Landowner/Public Access”.

Rule 1.04(71)(g) defines “Recreation” as “use of land for non-intensive public or private leisure-time uses, such as hiking, canoeing, and other undeveloped recreational uses”

Please reconsider the proposed Post Mining Land Use of sites f and g, in the light of the defined land use categories in Rule 1.04(71), and edit Maps 2.05-M8 and the text of page 2.05-70 accordingly.

Rule 2.05.4 – Reclamation Plan

2. The reclamation plan for the Upper Hubbard Creek Area (Somerset Mine) is described on pages 2.05-54 and -55 of the PAP, with references to correspondence with the USFS and drawings in Exhibit 2.05-E5 (including Drawings 2.05-E5-M2, E8-3352R, E8-3352RA, and E8-3364).

Please review the currently approved reclamation plan for the Upper Hubbard Creek Area (Somerset Mine) and propose changes as necessary to support the proposed postmining land use change. If existing designs are redundant please specify that they should be removed from the PAP with TR-78. Please also consider Rule 4.05.9(13), concerning permanent impoundments, during this process (see below).

3. The reclamation plan for the Elk Creek Coal Handling, Support and Ancillary Facilities is described on pages 2.05-55 through -60 of the PAP. The paragraphs describing the reclamation of drainage and sediment control features (on page 2.05-58) are vague, for example: “Sedimentation ponds will be removed unless separately approved in the future as permanent impoundments to support the postmining land use...” The consideration of TR-78 requires that the text of this section be edited to clarify the reclamation plan with respect to specific features.

Please review the entirety of the currently approved reclamation plan for the Elk Creek Coal Handling, Support and Ancillary Facilities, in particular the section dealing with drainage and sediment control features, and propose changes to the text as necessary to clarify the reclamation plan and to ensure consistency with the changes proposed with TR-78.

4. The currently approved postmining topography is shown on Maps 2.05-M6.

Please review Maps 2.05-M6 and ensure that they accurately depict the postmining topography and are consistent with the land use changes proposed with TR-78.

Rule 2.05.5 – Postmining Land Uses

5. On proposed revised page 2.05-70a the currently approved paragraph discussing the Sanborn Creek road etc. was added with a sentence reading: “Areas adjacent to this road are retained as transloading, water pipeline, equipment and material storage sites”

Please elaborate on this statement with sufficient details of the industrial/commercial activity to support the proposed change in postmining land use.

6. Also on proposed revised page 2.05-70a, a paragraph discussing the retention of Pond B was added.

Please review the paragraph discussing Pond B on page 2.05-70a with respect to item 7 of this letter.

Rule 4.05.9(13) – Permanent Impoundments

7. In order for any impoundment (i.e. sediment pond, in this case) to be approved as a permanent feature a demonstration must be made that the impoundment satisfies the requirements of Rule 4.05.9(13).

Please clarify which, if any, of the currently approved sediment ponds are proposed as permanent impoundments with TR-78, and submit a permanent impoundment demonstration for each. Please note also that permanent impoundments should be identified clearly on the postmining topography maps, and ideally the postmining land use maps (although the scale may not be appropriate).

8. On page 2.05-65 of the PAP, under the Hubbard Creek Fansite subheading, the text states: “All collection/diversion channels, culverts and the sediment pond shall remain as permanent diversions except for collection ditch HCD-4...”

Whilst the Division recognizes that the text of page 2.05-65 was not proposed to be changed with TR-78, it remains a potential hindrance to bond release if not addressed. Please clarify whether a permanent impoundment demonstration has previously been made for the sediment pond at the Hubbard Creek Fansite.

Please feel free to contact me by phone or email for clarification on any of the points raised in this letter. Given the current social distancing requirements a face-to-face meeting is not feasible, but I would be happy to set up a video conference if you think it would be helpful.

The decision due date for TR-78 is May 8, 2020.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Simmons", with a stylized flourish at the end.

Leigh Simmons
Environmental Protection Specialist