

Surety Increase No. 1 (SI1)

Proposed Decision

Peabody Sage Creek Mine

PERMIT NUMBER C-2009-087



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

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Introduction

This document is the proposed decision of the Colorado Division of Reclamation, Mining and Safety (the Division) for Surety Increase No. 1 (SI1) at the Peabody Sage Creek Mine, Division file number Permit No. C-2009-087. The package contains three parts. These include: 1) procedures and summary of the bond increase process; 2) observations and findings of the Division regarding compliance with the performance bond requirements of the Colorado Surface Coal Mining and Reclamation Act (Act) and regulations promulgated thereunder; and 3) the Division's proposed decision on the surety increase.

Detailed information about the review process can be found in the Act and the Regulations of the Colorado Mined Land Reclamation Board for Coal Mining (Rules). All Rules referenced within this document are contained within the Regulations. Detailed information about the mining and reclamation operations can be found in the permit application on file at on the Division's website (<https://drms.colorado.gov/>).

The Peabody Sage Creek Mine is an underground mine which is permitted and operated by Peabody Sage Creek Mining, LLC (PSCM). Peabody Sage Creek Mine has been in temporary cessation since 2017. The ownership of the land for which bond increase has been proposed is Federal, State, and Private. The coal ownership is also Federal, State, and Private.

I. PROCEDURES AND SUMMARY OF THE INCREASE PROCESS

The Division has initiated this surety increase in order to ensure compliance with Rule 3.02.1, which requires a performance bond for all requirements of the Act, Rules, and the approved reclamation plan. Rule 3.02.1(3) requires the performance bond to cover land within the permit area upon which surface coal mining and reclamation operations are to be initiated and conducted. Rule 3.02.1(4) states that liability of the performance bond shall continue until the entire reclamation plan has been completed.

Rule 3.02.2(4) requires the Division to adjust the required performance bond as affected land acreages are increased or decreased or when the cost of future reclamation changes. Procedures for adjustment of the required performance bond include:

- (a) Notification of the permittee of any proposed bond adjustment, providing the permittee with an opportunity for an informal conference on the adjustment.

On February 16, 2023 the Division provided PSCM notice of the proposed bond adjustment and provided an opportunity for PSCM to request an informal conference.

- (b) Issuance of a written proposed decision by the Division to adjust the bond amount, publication of notice of the proposed decision in a newspaper of general circulation in the locality of the mining operation once a week for two weeks following issuance of the decision, and notification of the permittee the surety and any person with a property interest in the collateral who has requested notification.

This document serves as the written proposed decision. A publication of the notice of the proposed decision will be initiated.

- (c) An opportunity for a formal hearing pursuant to Rule 2.07.4(3);

II. OBSERVATIONS AND FINDINGS

In conjunction with Midterm Review No. 3 (MT3) and in accordance with Rule 3.02.2(4), the Division has reviewed the adequacy of the reclamation bonding instruments and the adequacy of the reclamation cost estimate. There is currently one corporate surety in place for the Peabody Sage Creek Mine in a total bond amount of \$3,389,947.00.

A reclamation cost estimate was developed by the Division as a part of the Midterm Review No. 3 (MT3) process that was approved on February 14, 2023. The last reclamation cost estimate was developed for Permit Renewal No. 2 (RN2) on March 12, 2020. The Division's reclamation costs have not been updated since that date. Increases associated with the MT3 review are due to general updates in the cost estimate related to inflation. This reclamation cost estimate was sent to PSCM with the MT3 review document on February 16, 2023. Therefore, the required surety needs to be updated through the bond adjustment/surety increase process outlined in Rule 3.02.2(4).

The Division proposes to increase the required surety at the site to \$3,681,766.00. The Division currently holds a surety in the amount of \$3,389,947.00. The net increase in required surety is \$291,819.00. Therefore, PSCM will be required to submit an additional \$291,819.00 in bond.

III. PROPOSED DECISION

The Division proposes to approve SI1 and increase the reclamation liability amount to \$3,681,766.00. Any person with a valid legal interest which might be adversely affected by this proposed decision may request a formal public hearing before the Mined Land Reclamation Board in accordance with Rule 3.03.2(4). Public notice of this proposed decision will be published twice in *Colorado Mountain News Media - Steamboat Pilot* as soon as possible. Requests for public hearing must be submitted to the Division in writing within thirty days of the first publication in *Colorado Mountain News Media - Steamboat Pilot*. The request must state with reasonable specificity the reasons for the request and the objections to the proposed decision. If no hearing is requested within that thirty days, the Division's decision will become final.