



NEW MEXICO
ENVIRONMENT DEPARTMENT



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RYAN FLYNN
Cabinet Secretary
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Deputy Secretary

Original via UPS -- Copy via Electronic Mail

July 11, 2014

Mr. William K. Honker, Director
Water Quality Protection Division (6WQ)
U. S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: State Certification

Dear Mr. Honker:

Enclosed, please find the state certification for the following proposed National Pollutant Discharge Elimination System (NPDES) permit:

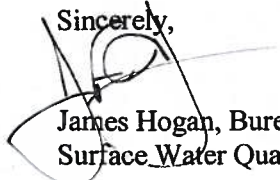
Lee Ranch Coal Company – El Segundo Mine – NM0030996

If any, comments and conditions are enclosed on separate sheets.

U.S. Environmental Protection Agency (USEPA) proposes to regulate discharges under the above-referenced NPDES Individual Permit. A state Water Quality Certification is required by the federal Clean Water Act (CWA) §401 to ensure that the action is consistent with state law (New Mexico Water Quality Act, sections 74-6-1 through 74-6-17, New Mexico Statutes Annotated (NMSA) 1978) and complies with state Water Quality Standards [*State of New Mexico, Standards for Interstate & Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC)*], the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

Pursuant to State regulations for permit certification (Section 20.6.2.2001 NMAC), USEPA jointly with NMED issued a public notice of the draft permit and announced a public comment period posted on the USEPA web site on June 3, 2014 and NMED web site at www.nmenv.state.nm.us/swqb/WQA/Notice on June 5, 2014. The NMED public comment period ended on July 7, 2014. NMED received no comments by the end of the comment period.

Sincerely,


James Hogan, Bureau Chief
Surface Water Quality Bureau

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cc: (w/enclosures)

Ms. Evelyn Rosborough, USEPA (6WQ-NP) via e-mail

Mr. Brent Larsen, USEPA (6WQ-PP) via e-mail

Mr. Brian P. Dunfee, Director, Lee Ranch Coal Company, El Segundo Mine, P.O. Box 757,
Grants, NM 87020 via certified mail – return receipt (7005 1820 0001 5771 5533)

Mr. Mark Rochlitz, Senior Engineering Manager, Lee Ranch Coal Company, El Segundo Mine
via e-mail

Mr. Ron Curry, Regional Administrator
Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

07/11/2014

STATE CERTIFICATION

RE: Lee Ranch Coal Company – El Segundo Mine – NM0030996

Dear Mr. Curry:

The New Mexico Environment Department has examined the proposed NPDES permit above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico

- certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law
- certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (**see attachments**)
- denies certification for the reasons stated in the attachment
- waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

Please contact Bruce J. Yurdin at (505) 827-2795, if you have any questions concerning this certification. Comments and conditions pertaining to this draft permit are attached.

Sincerely,



James Hogan, Chief
Surface Water Quality Bureau

**Lee Ranch Coal Company
El Segundo Mine
NM0030996
State Certification of the Proposed NPDES Permit
July 11, 2014**

Conditions of Certification

There are no conditions of certification.

Comments That Are Not Conditions Of Certification

Comment 1: USEPA draft permit cover page states:

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq; the "Act"),

*Lee Ranch Coal Company
El Segundo Mine
P.O. Box 757
Grants, NM 87020*

is authorized to discharge from a facility located at 35 miles north of Milan, off State Road 509, Grants, in McKinley County, New Mexico. Discharges from multiple outfalls are to receiving water named Kim-me-ni-oli Valley Tributary, thence into Chaco River, a tributary of San Juan River (about 100 miles north-west of El Segundo Mine) and to Inditos Draw, a tributary of Vought Draw, which flows into Arroyo Chico, then to Rio Puerco (about 60 miles southeast the mine area), a tributary of the Rio Grande River. Kim-me-ni-oli Valley Tributary and Inditos Draw are classified under 20.6.4.97 NMAC.

The definition of "classified water of the state" in 20.6.4.7.C(3) New Mexico Administrative Code (NMAC) approved June 5, 2013 [2013] "means a surface water of the state, or reach of a surface water of the state, for which the commission has adopted a segment description and has designated a use or uses and applicable water quality criteria in 20.6.4.101 through 20.6.4.899 NMAC."

Discharges from this facility would be to additional ephemeral waters as identified on the department's water quality standards (WQS) website pursuant to Subsection C of 20.6.4.15 NMAC. Therefore, for clarification consistent with current approved State WQS, the word "classified" in the last sentence of the citation above should be removed from the cover page of the Final Permit. The receiving waters are subject to 20.6.4.97 NMAC at this time.

Comment 2: Clarifications on reporting requirements for E.coli bacteria in the Final Permit appear needed because monthly average definitions in Part III of the draft permit refer to Fecal coliform bacteria, not E. coli bacteria. Reporting requirements for E. coli bacteria 30-day average or monthly average (30-day avg) effluent limitation should be clarified in Part I.A.3 (Sewage Lagoon Outfall) of the draft permit. For example, the following footnote or similar could be added to Part I.A.3 of the Final Permit: "*The 30-day average for E. coli bacteria is the geometric mean of the values for all effluent samples collected during a calendar month.*"

Comment 3: USEPA Fact Sheet prepared May 9, 2014, Section V.C.4.b Toxics (Page 7 of 11) states:

Should discharges occur, the permittee must monitor all applicable pollutants to protect the designated uses of livestock watering, wildlife habitat and limited (acute and persistent human health – organism only) aquatic life pursuant to 20.6.4 900 NMAC. The monitored pollutants, listed in Appendix I, are established in accordance with 20.6.4.900.J NMAC; these pollutants are not included in Form 2C. The permittee must monitor the pollutants at each outfall listed in Attachment A – “Coal Preparation & Associated Areas” and Attachment B – “Alkaline Mine Drainage” once per calendar year when discharge occurs.

The permittee must also monitor the pollutants in Section V of Form 2C at each outfall listed in Attachment A and B once per permit term when discharge occurs. All pollutants must be tested to insure compliance with the WQS. The test results may be used for the next permit renewal application.

USEPA Draft Permit Part I.A.7 states “*The permittee shall monitor all pollutants below at each outfall listed in Attachment A – “Coal Preparation & Associated Areas” and Attachment B – “Alkaline Mine Drainage” once per calendar year when discharge occurs. This monitoring requirement is not applicable to Sewage Lagoon Outfall.*” Part I.A.7 of the Draft Permit lists pollutants that include hardness-dependent acute aquatic life criteria metals (Aluminum, Cadmium, Chromium III, Copper, Lead, Manganese, Nickel, Silver, and Zinc). Hardness-dependent aquatic life criteria for metals are calculated as a function of dissolved hardness as CaCO₃ in milligrams per Liter (mg/L).

Testing for dissolved hardness should also be included with the monitoring USEPA requires in Part I.A.7 of the Final Permit. USEPA Draft Permit Part I.A.9 states “*The permittee shall monitor all pollutants in Section V of Form 2C at each outfall listed in Attachment A – “Coal Preparation & Associated Areas” and Attachment B – “Alkaline Mine Drainage” once per permit term when discharge occurs. All the pollutants shall be tested. This monitoring requirement is not applicable to Sewage Lagoon Outfall.*” Although the monitoring that USEPA requires in Part I.A.9 would include hardness, the sample collection USEPA requires in Part I.A.7 may not correspond with the sample collection USEPA requires in Part I.A.9.