



February 28, 2024

*Sent via ePermit system*

Clayton Cross  
Hillsboro Energy, LLC  
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Hillsboro, IL 62049  
[ccross@foresight.com](mailto:ccross@foresight.com)

Re: Incidental Boundary Revision No. 19 to Permit No. 399  
Deer Run Mine

Dear Mr. Cross:

The appropriate Department technical staff have reviewed the proposed incidental boundary revision dated October 6, 2023, and the supplemental information received November 9 and 28, 2023, submitted by the permittee for the Deer Run Mine. The request would add 20 acres to conduct surface coal mining activities. The additional acres would be used for construction of a ventilation shaft, two utility boreholes, a gravel work yard, and two access roads.

Section 1774.13: The Department finds the permittee has demonstrated in its request, and field inspections by the Department's field representative have confirmed, that these areas meet the requirements for an incidental boundary revision, as outlined in 62 Ill. Adm. Code 1774.13(d). Section 1774.13(d)(6) publication requirements have been met. Section 1774.13(c) findings are below.

Section 1773.13 and 1773.14: All comments received in writing have been considered by the Department in reviewing this application. The Department's responses to these comments are set forth in Appendix A.

### **DEPARTMENT FINDINGS**

Section 1761.11(d): The proposed area is within one hundred (100) feet measured horizontally of the outside right-of-way line of public roads in Montgomery County.

The proposed application is adjacent to the right-of-way of Buckeye Trail and North 7<sup>th</sup> Avenue roads. The only proposed coal mining activities in the application within 100 feet of the public

road is the construction of mine access roads. Thus, the provisions of Section 1761.14(b) do not apply.

Section 1761.11(e): The proposed area is not within three hundred (300) feet measured horizontally of an occupied dwelling.

Section 1761.11(f): The proposed area is not within three hundred (300) feet measured horizontally of any public building, school, church, community or institutional building, or public park from which the applicant will be required to maintain a three hundred (300) foot buffer zone.

Section 1773.15(c)(12): The effect of the proposed permitting action on properties listed on or eligible for listing on the National Register of Historic Places has been taken into account by the Department.

Sections 1784.14(e)(4) and 1784.14(f)(2), respectively: The Department has determined that neither a new or updated probable hydrologic consequences determination nor a new or updated assessment of the probable cumulative hydrologic impacts is required.

Section 1817.46(e): A sediment pond exemption is requested for an area delineated in the application. The regulations at Section 1817.46(e) allow the Department to grant exemptions from the requirement to pass all disturbed drainage through a siltation structure when:

- a. The disturbed drainage area within the total disturbed area is small; and
- b. Alternate sediment control measures as described in Section 1817.45(b) are used in lieu of a siltation structure, and the applicant demonstrates that siltation structures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1817.42.

The Department has determined that the area for which a sediment pond exemption is requested meets the criteria established in Section 1817.46(e) and hereby grants an exemption from the use of a sedimentation pond for this area.

Section 1817.97(b): Based on the 17 Ill. Adm. Code Part 1075 consultation, the Department has determined that the operations, as approved, will neither affect the continued existence of endangered or threatened species nor result in the destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 USC 1531, et seq.).

Section 1817.150: The applicant has proposed the creation of roads in the permit area. Pursuant to Section 1817.150(a)(2)&(3) the Department has determined that the roads are ancillary.

### **FEE AND BOND**

Section 1777.17(a): The Department has received the required fee for the operations.

Section 1800.15(d): The Department has reviewed the bond requirements for the operations and finds that the required adjustment in bond has been received.

### **PERMIT CONDITIONS**

1. Upon completion of the shaft construction work, the operator shall provide as-built engineering certifications to show:
  - A. Final dimensions of the shaft.
  - B. Thickness and type of existing liner material.
  - C. Location of water rings.
  - D. Depths/elevations of the ground surface, top of bedrock, top of coal, and coal thickness.

Section 1778.15: Pursuant to Section 1778.15, the permittee shall possess all necessary legal rights to enter and conduct surface coal mining and reclamation operations within the permit area until final bond release is obtained.

Section 1817.13: Upon completion of drilling activities, a borehole/well completion diagram shall be submitted to the Department for all boreholes (dewater, injection, observation, methane vent, rockdust, power supply, etc.) within thirty (30) days of completion of drilling activities. Pursuant to 62 Ill. Adm. Code 1817.13, each borehole shall be properly cased/lined. The construction diagram shall include the location and surveyed elevation of each borehole, a unique name for the borehole, and details on the casing/construction materials used. A copy of the borehole/well completion diagram can be found on the Department's webpage under Miscellaneous Permittee/Operator Forms. Construction of all boreholes/monitoring wells shall be in accordance with Operator Memorandum 2017-01.

<https://dnr.illinois.gov/mines/lrd/formsapplicationsmemoranda.html>

Section 1817.15: Pursuant to 62 Ill. Adm. Code 1817.15, each borehole shall be properly abandoned and sealed when no longer needed for its intended purpose. A copy of the plugging affidavit form can be found on the Department's Forms webpage under Miscellaneous Permittee/Operator Forms. Proof of plugging of all boreholes shall be in accordance with Operator Memorandum 2015-02.

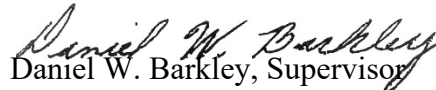
<https://dnr.illinois.gov/mines/lrd/formsapplicationsmemoranda.html>

All other conditions and provisions contained in the approved permit also apply to this revision. Approval from this agency does not relieve the permittee from obtaining approval from other agencies requiring such.

Upon receipt by the Department of the fee and bond, plus forwarding two (2) copies of your request letter and maps to Illinois Environmental Protection Agency, Mine Pollution Control Program, 2309 West Main Street, Suite 116, Marion, Illinois 62959, mining activities on these 20 acres may commence, following Department approval.

Should you have any questions, please contact Patrick E. McPhail at our Benton Office.

Sincerely,

  
Daniel W. Barkley, Supervisor  
Land Reclamation Division

DWB:PM:sc

cc: P. McPhail, [Patrick.McPhail@illinois.gov](mailto:Patrick.McPhail@illinois.gov)  
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## **APPENDIX A**

### CONSIDERATION OF COMMENTS AND OBJECTIONS

The regulations at 62 Ill. Adm. Code 1773.13(b) allows the submission of written comments on applications for an incidental boundary revision (IBR).

The following are comments received from the members of the public and the Department's response to those comments.

The Department has considered and evaluated all comments concerning the proposed IBR. The issues raised that are deemed pertinent to the permit application are addressed below.

**Comment:** A sediment pond exemption is requested and in Form 5.2, a drainage exemption is requested. Are the proposed exemptions in anticipation of a potential problem down the road? Surface drainage will not be collected and treated prior to leaving the permit area. There are concerns that the well water of neighbors will be adversely affected. How will contamination from the surface be monitored?

**Response:** The regulations at Section 1817.46(e) allow the Department to grant exemptions from the requirement to pass all disturbed drainage through a siltation structure when the disturbed drainage area within the total disturbed area is small; and alternate sediment control measures like silt fence and straw bales; as proposed in the application are proposed and used in lieu of a siltation structures (sediment ponds).

All shafts and boreholes proposed within this application will be fully lined with concrete to prevent contamination of groundwater per regulations at 62 Ill. Adm. Code 1817.13.

**Comment:** There was no additional bonding listed for the 20 acres. HEL did assure that the performance bond will remain in effect for the duration of the operation as well as any additional bond required by IDNR. It is an abuse of economic power that bonding is NOT adequate to address the damage from longwall mining. Taxpayers are needlessly held liable for the state's failure to require additional bonding.

**Response:** The Department has assessed and collected the appropriate amount of bond to cover the cost of reclamation of the proposed surface operations. The regulations at 62 Ill. Adm. Code 1800 provide the Department the authority to require bond for surface-permitted areas. The shadow area associated with longwall mining is not permitted on the surface, thus the Department does not have the authority to bond the shadow area prior to mining activities. However, the regulations found at Section 1800.14(c) allow the financial responsibility for repairing material damage

resulting from subsidence to be satisfied by the required liability insurance policy. Taxpayer funds are not utilized to repair subsidence damage for mining operations permitted under the Title V Illinois program.

Comment: Reclamation of the boreholes plugged in 60 days, the shaft within 2 years and the total done no later than 2 years is the stated plan. Why were there no costs listed for the reclamation of the area? Delayed and absent reclamation has been an ongoing problem with coal mining. Taxpayers should be protected from such liabilities.

Response: The applicant may provide suggested dollar figures for reclamation of proposed surface activities but is not required to. The applicant is required to provide information sufficient for the Department to determine the appropriate bond amount in accordance with 62 Ill. Adm. Code 1800.14. In this case, the applicant supplied the required information (e.g., dimensions of gravel yards and/or concrete pads and the depth and diameter of any boreholes and/or shafts) and the Department has assessed and collected the appropriate bond amount to cover the cost of reclamation of the proposed surface operations. The permittee is currently working on reclamation of Incidental Boundary Revision locations, and thus, taxpayers are not liable for said reclamation.

Comment: The liability insurance is effective only through 6/1/2024. Hopefully, the expired pollution liability insurance will be reinstated and updated to cover damage to water resources.

Response: The regulations at 62 Ill. Adm. Code 1800.60 does not require an applicant to carry pollution liability insurance coverage. The Department has on file valid proof of insurance for the permittee as required by this regulatory section.

Comment: Details of what will be constructed or placed on the surface of the proposed area were lacking. Will there be a ventilation fan and lights that may disturb nearby neighbors? Will there be monitoring of mine gases for radon and methane? The area will be marked with posts, but there should be appropriate signs warning of harmful mine gases.

Response The narrative in response to Question 3.1.2, and the IBR Operations Map contain the details of the proposed operation. The narrative in response to Question 3.1.3 includes the details of the type of equipment proposed for the IBR application. Only activities required for this operation are being proposed by the permitting action.

There is no plan for a ventilation fan for this shaft. Lighting is outside the purview of the Department. The monitoring of mine gases for radon and methane is outside the purview of the Department.

Comment: Previous Incidental Boundary Revisions for ventilation shafts on much smaller acreage have included more detailed associated activity, including concrete pads,

fans, air compressor stations, nitrogen generation stations, portable can plants, etc. I did not find any of these mentioned in this permit application, so are they not part of the planned activity at this site?

Response: The narrative in response to Question 3.1.2, and the IBR Operations Map contain the details of the proposed operation, method of installation, and construction sequence proposed for the IBR application. Only activities required for this operation are being proposed by the permitting action. The examples you list from other permitting activities are not proposed for this IBR site.

Comment: The application stated that the surface mine operations are not within 300 feet of any occupied building. The house across the road is not occupied, but there are 5 occupied homes within an approximately ½ mile distance of the site. Will this site contain a vent fan and its associated noise which will be a constant source of noise pollution for these homeowners?

Response: The regulations at 62 Ill. Adm. Code 1761.11(e) is specific that no surface coal mining operations shall be conducted within 300 feet measured horizontally, from any occupied dwelling.

Noise pollution is outside the purview of the Department.

Comment: References to the use of silt fencing are also in Section 3.1.2 as well as in Section 3.4.3 (Soil storage). It is stated that “silt fencing will be installed along all down-sloping sides of proposed IBR to control potential erosion from the disturbed area and will be maintained during the completed construction process until the site is vegetated.” However, at IBR #15 it was brought to the attention of IDNR personnel that in early September 2021 the silt fence was down in areas and drainage was occurring onto adjacent landowner’s property. Will this site be more adequately monitored?

Response: Department personnel conduct a minimum of one partial monthly inspection and an average of at least one complete inspection per calendar quarter of each active or inactive at the mine site per regulations at 62 Ill. Adm. Code 1840.11. The Department has historically exceeded the inspection frequency mandated by SMCRA. Inspections are also conducted to investigate each written complaint received from the general public.

Comment: In Section 4.6 concerning groundwater monitoring, it appears that monitoring will be done on a quarterly basis. Will monitoring of groundwater and surface water actually be done pertaining to this IBR site? The occupied home closest to the site relies on well water for their drinking water. If monitoring is to be done, are the results publicly available? Or does the responsibility of determining that their well water is safe to drink fall onto the homeowners?

Response: Routine groundwater monitoring for the installed groundwater monitoring wells at the Deer Run Mine facility has been conducted since the original Permit No. 399 was issued. This quarterly monitoring will continue until final bond release is approved.

No groundwater or surface water monitoring was proposed, nor is required in the vicinity of this proposed IBR site. Proposed IBR No. 19 is for the installation of a ventilation shaft and two (2) utility boreholes. Both the ventilation shaft and the boreholes are proposed to be fully lined from the surface to the mine roof to ensure that groundwater will not be impacted by the presence of these structures.

During shaft construction and operations, infiltrating groundwater may be encountered. The infiltrating groundwater is proposed to be managed by a series of water rings constructed within the shaft, which will divert the water to the underground workings. The water would then be managed via the existing underground water management system.

It is not anticipated that the installation of the two (2) utility boreholes will negatively impact groundwater quality or quantity.

There are no expected impacts to private water wells from these proposed activities.

Comment: In Section 8.5 (High capability soil reconstruction plan), the company states that the area will be restored to the pre-mining conditions, topsoil will be restored to the pre-mining conditions and compaction will be minimized. As I have stated in comments for previous permits, I am skeptical that such claims can be achieved.

Response: The applicant will be held to the performance standards for operations and reclamation occurring on high capability lands found at 62 Ill. Adm. Code 1825. Inspections are conducted throughout site preparation, during operations, and during reclamation to ensure these standards are met. These standards include compaction minimization and alleviation, when necessary. In addition, the Department has a robust agricultural productivity evaluation program, outlined at Section 1817.116, to ensure that reclaimed soils are capable of the same productivity as they were pre-mining.