

KANSAS GEOLOGICAL SURVEY

The University of Kansas
1930 Constant Ave
Lawrence KS 66047-3726
phone 785-864-3965
fax 785-864-5317
www.kgs.ku.edu

December 12, 2006

Mr. Murray J. Balk, Chief
Surface Mining Section
Kansas Dept. Health and Environment
4033 Parkview Drive
Frontenac, KS 66763

Dear Murray:

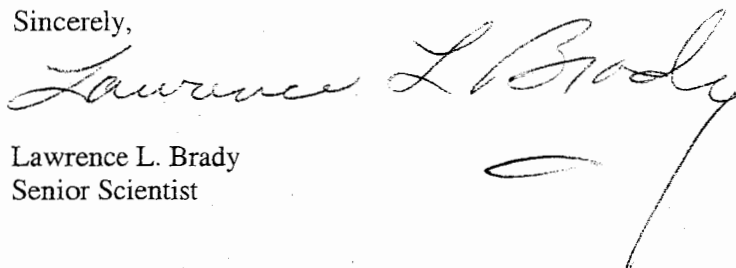
I have reviewed the application information that you sent to the Kansas Geological Survey concerning the new permit application (BB-SM-1403) to surface mine coal on 328 acres in portions of Section 11 and 12, T. 27 S., R. 25 E., in southeast Bourbon County, Kansas. It is my understanding that the new permit adds 68 acres to the 260 acres that is presently permitted as permit BB-SM-1401 by the Phoenix Coal Company, Inc. and referred to as the Garland Mine. Coals that are expected to be mined in this new permit include the Bevier, Croweburg, and the Fleming coals. Personally, I believe the coal referred to in the permit as the Fleming coal, is actually the Mineral coal. This is controversial, and I have discussed this with Terry Fox of Triad Engineering, and with Tim Wilson of your Surface Mining Section. I don't think this differing opinion on which bottom coal is mined is a problem to be of concern. I find no problems with the information submitted, and I do not anticipate any problems much different on the new area than was found in the adjacent earlier permit area.

In general, I do not anticipate any serious problems with mining of coal in this new permit area if normal care is taken with segregating and burying of the pyritic materials removed from the coal or closely associated with the coal. It was noted that some intervals could be of concern based on overburden analyses, but with care and material blending that should not present a problem. Assuming your normal controls on preventing exposure of low pH areas following mining as required by Kansas laws and regulations, conditions for this new permit should not vary from your experience with earlier mined areas adjacent to this requested new permit. I have visited the Garland Mine several times in the last couple years and the mine seemed to be running well, and they seem to do a good job with their reclamation work following the mining phase.

The above discussion represents our best assessment based on the information that the Kansas Geological Survey has about this locality and/or proposed project at the time of this writing. Other geologic conditions, not discussed herein, or for which the Kansas Geological Survey has no knowledge, may affect the viability or safe operation of this facility or property.

Best wishes on completion of your permit review.

Sincerely,



Lawrence L. Brady
Senior Scientist



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

December 6, 2006

Kansas Geological Survey
1930 Constant - Campus West
University of Kansas
Lawrence, Kansas 66045

Phoenix Coal Company, Inc. has submitted permit application BB-SM-1403 to the Kansas Department of Health and Environment, Surface Mining Section, seeking to operate a coal mine on 328 acres in portions of Section 11 and 12, Township 27 South, Range 25 East in Bourbon County, Kansas. Permit BB-SM-1403 adds 68 acres to the 260 acres already permitted as BB-SM-1401.

Per the MOU between our agencies, enclosed is section 780.22, a location map, and a permit area description.

Copies of the complete permit application including a detailed description of the proposed operation are on file at the following locations:

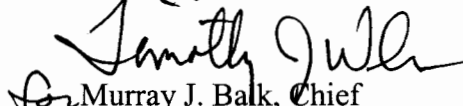
Surface Mining Section
4033 Parkview Drive
Frontenac, Kansas 66763

KDHE - Bureau of Environmental Remediation
1000 SW Jackson, Suite 410
Topeka, Kansas 66612-1367

Bourbon County Courthouse
Fort Scott, Kansas 66701

Please provide any comments you may have regarding this permit application to the Surface Mining Section by **December 29, 2006**. If you have any questions please do not hesitate to contact this office at (620) 231-8540.

Sincerely,


for Murray J. Balk, Chief
Surface Mining Section

BUREAU OF ENVIRONMENTAL REMEDIATION
SURFACE MINING SECTION
4033 PARKVIEW DR., FRONTENAC, KS 66763

Voice 620-231-8540 Fax 620-231-0753 <http://www.kdheks.gov>

Permit Area Description

BB-SM-1403
(Sept. 2006)

The permit area is described as the following. The land containing 328 acres, more or less, situated in Section Eleven (11) and Section Twelve (12), Township Twenty Seven (27) South, Range Twenty Five (25) East, Bourbon County Kansas, more particularly described as follows:

Beginning at a point 25 feet south of the Northwest Corner of Section Twelve (12), thence East along the South County Road Right-of-Way Boundary a bearing of South 87° 20' 51" East a distance of approximately 2736 feet, thence on a bearing of South 0° 49' 45" West a distance of approximately 2151 feet, thence on a bearing of North 88° 21' 06" West a distance of approximately 1422 feet, thence on a bearing of South 2° 28' 51" West a distance of approximately 450 feet, thence on a bearing of North 88° 35' 13" West a distance of approximately 1317 feet, thence on a bearing of North 1° 4' 54" East a distance of approximately 58 feet, thence West approximately 1637 feet, thence meandering Northwesterly along the center of Buck Run Creek a distance of approximately 2780 feet to the projected intersection with the tree line bordering the West edge of the Marihta G. Rutherford property, thence North approximately 1827 feet to the South County Road Right-of-Way Boundary, thence East along South County Road Right-of-Way Boundary approximately 3271 feet to the Point of Beginning.