

Memorandum

Date: November 26, 2012

To: Mat Weaver

From: Craig L. Saxton

Re: October 29, 2012 Technical Memorandum Review
Supplemental information for Mitigation Plan for Permit 37-8205

Jeff asked me to review the proposed Technical Memorandum in regards to an acceptable means of mitigating for permit 37-8205. He asked that I work with you or Michele regarding the technical aspects of the plan. I spoke with Shelley and Michele is not available so I am coming to you despite her previous history on this subject.

There is a lot of history on this that can be found in the backfile. However, it looks to me that the permit holder built a small pond in July of 2011 under decreed right 37-22128 and measured the evaporation losses from that new pond using an onsite weather station. They plan to use 37-22128 to mitigate for permit 37-8205. I suspect that will be by eliminating the pond they just built (not sure on that).

Could you please review the weather data they collected and make a recommendation as to if we should accept it or not? I think the main question that was asked as this idea was being kicked around was if a year or two worth of weather data is sufficient. In this case it looks like they tried to correlate the collected weather data with other local stations.

I went through the backfile and tried to summarize the history:

Timeline:

May 30, 2012: Sun Valley Land and Minerals Inc, asks for extension of time to modify or supplement its proposed plan for mitigation of the evaporative losses from the pond associated with permit 37-8205 (existing pond). They plan to set up a weather station on site to calculate the precise amount of mitigation required.

June 19, 2012: Michele argues that there is a valid mitigation plan in connection with permit 37-8205 and that weather data collected over a year or two will not be a valid representation of evaporation losses in the pond.

June 20, 2012: Jeff asks for additional information to decide if he will give permit holder more time to collect weather data and to identify the source of mitigation water.

July 5, 2012: Brockway responds to Jeff's Letter and identifies decreed rights 37-22128 and 37-4368B as possible rights to offer up for mitigation.

August 6, 2012: Michele argues that Brockway's proposed weather data collection and comparison used to calculate evaporation losses will not be valid.

August 7, 2012: Jeff Tells Brockway that he will give them a year to gather weather data on site so they can propose an acceptable mitigation plan for permit 37-8205

October 30, 2012: Brockway submits weather data collected on site at the new pond built under 37-22128. His plan is to mitigate with 37-22128 by retiring the consumptive use associated with that right.