



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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February 23, 1999

TO: Pamela Grubaugh-Littig, Permit Supervisor *PLG*

THRU: Daron R. Haddock, Permit Supervisor *DRH*

FROM: Paul Baker, Reclamation Biologist *PB*

RE: Land Use Change and Bond Release for Part of the Facilities Area, Nevada Electric Investment Company, Wellington Preparation Plant, ACT 0077012-97BR, Folder #2, Carbon County, Utah

## SUMMARY:

In 1997, Nevada Electric Investment Company, NEICO, submitted a request to release the bond on an area where the land use had previously been changed to industrial. The Division subsequently inspected the site and found certain problems with the application and with the site. These were enumerated in a letter dated February 19, 1998. On November 16, 1998, NEICO submitted a new proposal which the Division determined administratively incomplete. Further information was received December 11, 1998, and this was determined administratively complete the same day. The Division conducted a bond release inspection on January 28, 1999, and sent its response on February 8, 1999. A revised proposal was received from the permittee on February 18, 1999.

## TECHNICAL ANALYSIS:

## RECLAMATION PLAN

## REVEGETATION

Regulatory Reference: R645-301-341

### Analysis:

Originally, the area where the applicant proposed changing the postmining land use and having the bond release included the greasewood revegetation reference area. The proposal has been revised, and the greasewood reference area would remain in the permit area.

**Findings:**

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

**POSTMINING LAND USE**

Regulatory Reference: R645-301-412, R645-301-413, R645-301-414

**Analysis:**

On October 27, 1997, the Division approved amendment 97F which changed the postmining land use on part of the permit area from grazing and wildlife to industrial. The applicant has now proposed to increase the size of the area with an industrial postmining land use to include nearly all of the disturbed area on the west side of the Price River except the coarse refuse pile. As required in R645-301-414, the existing mining and reclamation plan contains plans for returning the area to the premining land use.

The area where the postmining land use would be changed is shown on Map 412.01, and the application includes a metes and bounds legal description of this area. According to the application, the area is well-suited for industrial activities because of its proximity to the railroad tracks and U.S. Highway 6, and it is zoned by Carbon County as "heavy industrial."

For the Division to approve an alternate postmining land use, the applicant is required to show the use meets the requirements of R645-301-413.300. The following discussion itemizes each criterion together with the justification in the application.

**1. The use must be a higher and better use.**

The application indicates the area is ideally suited for industrial use because it has long been the site of coal processing facilities, and a main line railway dissects the property. A letter from Andalex Resources, Inc., indicates the site is not ideal for agricultural or grazing usage, part of the premining land use. The letter says the area does not support grazing in its natural state, and wildlife usage in the area is limited to rodents, rabbits, lizards and insects.

While the Division agrees the area has limited productivity and usefulness for wildlife and grazing, the assertions in the Andalex letter are exaggerated. Surrounding areas are grazed, and the area supports other wildlife besides those mentioned, including big game and raptors.

However, the only part of the permit area with critical wildlife habitat is the riparian area near the Price River, and the applicant has not disturbed most of this area and has not proposed to change the land use. Wildlife habitat in the area where the land use is proposed to be changed is listed as "substantial value" for some species. According to the definition of this term, these areas provide some forage but are primarily existence areas.

Prior to disturbance, most of the area where the land use would be changed probably had a galleta/atriplex vegetation community. The Natural Resources Conservation Service has estimated productivity in adjacent areas at 240 pounds of dry forage per acre. This compares to a sagebrush/grass community in Carbon County in fair range condition with 800 pounds per acre and a pinyon-juniper/shrub community with 1750 pounds per acre. The areas where the land use would be changed have limited value for grazing or wildlife use.

Considering the restricted value of the land for wildlife and grazing and the value it has for industrial development, the proposed land use can be considered a higher and better use.

**2. There must be a reasonable likelihood of achieving the use.**

The application indicates the Boards of Directors of Andalex Resources, Inc., and West Ridge Resources, Inc., have approved the budget for construction of the loadout facility. Andalex has received a commitment from Union Pacific Railroad to allow dual rail access to the site, and the application includes a letter from Union Pacific indicating support for the land use change.

The application includes a copy of a summary of the terms and conditions of an option agreement between the applicant, the operator, and Andalex Resources, Inc. The closing of the transaction is contingent upon the applicant and operator gaining bond release and removal from state or federal permit area.

Some facilities have not been removed, but the application discusses how they will be used after mining. The dryer, auxiliary, and road ponds will be used for interim sediment control until a new sediment pond is built for the loadout facility. The company intending to build the loadout will use the tracks above the sand hopper and fill in the hopper. The foundation for the pumphouse over the auxiliary pond will be covered with fill for the new railroad tracks.

Based on the information in the application, it appears there is at least a reasonable likelihood of achieving the alternate postmining land use.

**3. The use must not present any actual or probable hazard to public health or safety, or threat of water diminution or pollution.**

It will be necessary to construct the site to all federal and state safety standards, and the area will still be subject to requirements of the Clean Water Act. Andalex intends to use part of the area for a sediment pond, but it would be impossible for the Division to be certain this actually happens because it would no longer be within a permit area.

The track hopper has been fenced with a welded wire fence, and the door to the lower part of the hopper has been locked. Fences have been built around other structures that could pose a safety hazard.

Threats of water pollution or diminution are addressed separately.

**4. The use will not be impractical or unreasonable, inconsistent with applicable land use policies or plans, involve unreasonable delay in implementation, or cause or contribute to violation of federal, Utah or local law.**

The site has been used intermittently to process and load coal since 1957, so the proposed use as a coal loading facility is not considered impractical or unreasonable.

The application includes comments from Carbon County supporting the proposed land use change. It also says the area is zoned for heavy industrial use. Therefore, the proposed use appears to be consistent with local zoning ordinances and land use plans. The Division has also received comments from the Southeastern Utah Association of Local Governments supporting the change in use.

The site would be used as a loadout primarily for coal from the proposed West Ridge Mine. While this mine is not yet approved, the Division is in the process of reviewing the application, and there does not appear to be any major obstacle that would prevent eventual permitting of the mine.

According to the application, Andalex has allocated funds to construct the facility and has already spent about \$200,000 on engineering designs. They intend to begin construction in May 1999 and to have the site operational by December 1999.

For these reasons, it appears there would be no unreasonable delay in implementation of the industrial land use.

Approval of the alternate postmining land use should not cause or contribute to violation of any laws. Anyone using the site after bond is released would need to comply with all applicable laws, but the land use appears to be consistent with local ordinances. In addition, the eventual user will need to gain approval from any land owners, such as the railroad.

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January 7, 1999

**Findings:**

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

**RECOMMENDATIONS:**

The proposal to change the postmining land use meets revegetation and postmining land use requirements.

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