



State of Utah
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL, GAS AND MINING

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April 28, 1995

TO: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist *PPB*

RE: Draft Review, Left Fork of Deadman Canyon Fan Installation, Centennial Project, Andalex Resources, Inc., ACT/007/019-94G, Working File, Carbon County, Utah

Folder # 2 and Permit binders

SYNOPSIS

On September 12, 1994, the Division received a proposal from Andalex Resources to develop a fan portal in the Left Fork of Deadman Canyon. Additional information was received October 24, 1994, February 21, 1995, and April 20, 1995. The proposal includes a copy of rights-of-way or easements from the Bureau of Land Management, the State of Utah, and from Gladys Artman; a general description of vegetation in the area; and the results of an archaeological survey. The current mining and reclamation plan already includes wildlife information.

Two sections of the application conflict regarding the postmining status of the road. Otherwise, Andalex has fulfilled regulatory requirements of the general contents, biology, and land use portions of the regulations.

ANALYSIS

RIGHT OF ENTRY INFORMATION

Regulatory Reference: R645-301-114

Analysis:

The proposed amendment includes a copy of a right-of-way grant/temporary use permit from the Bureau of Land Management (BLM). The right-of-way is for an access road 16-feet wide and 3000-feet long, a pad site 70-feet wide and 250-feet long, and two coal tunnels.

Andalex proposes to place its topsoil pile within the current permit area. The fan portal itself would also be in the current permit area; only two entries would be in the right-of-way.

The present mining and reclamation plan quotes the federal leases as saying, "The lessor . . . grants and leases to the lessee . . . the right to construct all works, buildings, structures, equipment, and appliances which may be necessary for the mining and preparation of the coal for market" Therefore, Andalex has the right to construct facilities within its current permit area.

Part of the proposed access road would be on State and private lands. Andalex has submitted right of entry information for these portions of the road. The approvals are to be inserted in Appendix J of the mining and reclamation plan. The State of Utah, Division of School and Institutional Trust Lands Administration, issued easement 302 on December 16, 1994. Gladys Artman, the owner of the private land, granted an easement across the southwestern corner of her property.

Findings:

Andalex has complied with the requirements of this regulation.

UNSUITABILITY CRITERIA

Regulatory Reference: R645-301-115

Analysis:

The material received in the submittal does not address this issue.

According to information from the BLM, the existing road is not considered a public road in either the county or BLM transportation plan, and the BLM does not spend money to maintain it. Therefore, the proposed facilities are not within 100 feet of a public road.

Andalex is proposing that the Division permit the access road as an ancillary road. The intersection of a permitted road with a public road is not considered mining and reclamation operations for which the Division needs to provide opportunity for a public hearing. However, Andalex needs to discuss their proposed activities with Carbon County officials because there are potential safety and other factors that the County might want to consider. These issues are not within the scope of this regulation.

Findings:

Andalex does not need to include additional information in this section of the mining and reclamation plan to comply with this regulation.

VEGETATION AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: R645-301-320

Analysis:

The submittal includes a soil survey report that includes general descriptions of the vegetation. Vegetation descriptions are correlated with range site categories. Range sites in the area include Upland Stony Loam (Pinyon-Juniper) of the Cabba family soils and the Datino soils, and Mountain Stony Loam (Oak) of the Brycan soils. Predominant species include Gambel oak, salina wild rye, big sage, low gray sage, Utah juniper, and pinyon. Vegetation in areas with Brycan soils is almost exclusively Gambel oak.

The soils and vegetation in this area are very similar to those in the main mine area. Because Andalex will disturb less than one acre and because the vegetation is similar to that in the Right Fork of Deadman Canyon, it is not necessary to establish a new reference area, and more detailed general vegetation information is not needed.

The current plan also includes wildlife information about this area. A golden eagle nest is in the cliffs above the proposed fan portal. This nest has been very productive in the past although it was not active in 1994.

The lower part of the access road is within critical deer winter range, and part of the proposed disturbance is in high priority elk winter range.

The Book Cliffs provide habitat for canyon sweetvetch (*Hedysarum occidentale* var. *canone*), a candidate threatened or endangered species. Although this species has no legal protection except under BLM regulations, it should be avoided if possible. Bob Thompson of the U. S. Forest Service searched the area for this plant and did not find it or suitable habitat. This information is in a letter to be inserted in Appendix M of the mining and reclamation plan.

Findings:

Andalex has complied with the requirements of this regulation.

INTERIM STABILIZATION

Regulatory Reference: R645-301-331

Analysis:

Andalex has included a footnote to one of its seed mixes saying they will use this seed mixture and shrub list for interim reclamation in the Left Hand Fork fan installation and on the new topsoil pile. The seed/planting mixture was developed primarily for establishing vegetation near a non-perennial stream channel. The area Andalex is proposing to disturb is partly along a stream channel and partly an upland area, but the upland area is relatively mesic. Both the seed and planting mixtures are appropriate. Narrowleaf cottonwood trees would probably only survive near the channel, but Andalex can adjust precise planting locations.

Findings:

Andalex has complied with the requirements of this regulation.

FISH AND WILDLIFE PROTECTION

Regulatory Reference: R645-301-333

Analysis:

The current mining and reclamation plan contains a wildlife report from the Division of Wildlife Resources including some wildlife protection recommendations. Among these are statements that deer and elk winter ranges need to be protected from man's disturbance when the animals are present. The report also says active golden eagle nests are extremely sensitive to man's disturbance within a one-half kilometer radius between April 15 and July 15.

The BLM right-of-way contains stipulations that are more specific and in line with current recommendations. Andalex has included these stipulations as commitments in the mining and reclamation plan. They are:

1. No construction activities will occur within one-half mile of the golden eagle nest in the Left Hand Fork during the nesting season, February 15 through July 15, if it is determined the nest is active.
2. There will be no construction activities from December 1 to April 15 to minimize disturbance to wintering elk and deer.
3. Except for snow removal, all routine maintenance should be done from within the mine.

The commitments discussed above and those already in the plan should be adequate to

protect important biological resources.

Findings:

Andalex has complied with the requirements of this regulation.

REVEGETATION

Regulatory Reference: R645-301-341

Analysis:

Section R645-301-341.210 of the proposed amendment has two seed/planting mixtures. There is a footnote under the second mixture saying it will be used for interim revegetation and for final reclamation. This mixture contains species adapted to more mesic areas and ephemeral/intermittent drainage areas and is appropriate for final reclamation of the fan site.

In 1994, Andalex attempted to transplant several shrubs on the topsoil pile near the Apex Mine. Vegetation is already established on this topsoil pile, but there are few shrubs. Most or all of the transplants died. Andalex says in the footnote below the second seed/planting mixture that they will try this shrub list on the new topsoil pile in the Left Hand Fork. The pile should be left in a roughened condition and seeded. In the spring, Andalex should plant shrubs, excluding narrowleaf cottonwood. The shrubs may need irrigation and protection from wildlife.

The amendment says on page 61, section R645-301-310, that the drainage area reference area is the most adaptable to the left fork fan installation. This reference area is appropriate for judging revegetation success for the fan portal area.

Findings:

Andalex has complied with the requirements of this regulation.

LAND USE RESOURCE INFORMATION AND HISTORIC AND ARCHÆOLOGICAL RESOURCES

Regulatory Reference: UCA R645-301-411.100; R645-301-411.200, R645-301-411.140

Analysis:

The proposal includes the findings of an archaeological survey performed on September 21, 1994. The investigators only checked the proposed pad and new access road areas, but the existing access road was checked in a 1986 survey by Senco-Phoenix. No sites were found in either survey. The Division should recommend a cultural clearance to the State Historic Preservation Officer.

Premining land uses include wildlife, limited grazing, and recreation

Findings:

Andalex has supplied information and included commitments in the mining and reclamation plan adequate to satisfy the requirements of this regulation. The Division should recommend that the State Historic Preservation Officer give a clearance for this project.

POSTMINING LAND USES

Regulatory Reference: UCA R645-301-412

Analysis:

No new postmining land use information is presented for the fan portal area. The mining and reclamation plan says postmining land uses will be the same as premining uses.

Section R645-301-330 says the roads in the Left and Right Forks of Deadman Canyon will be left permanently after reclamation. Andalex will reestablish the terrain to as nearly the original as practical. In Section R645-301-731.610, the application says Andalex will reclaim the road entirely if it is determined through communications with the surface owners and land management agencies that this is the appropriate action. Andalex intends to obtain official comments on the status of the road for the postmining land use from the State of Utah, Gladys Artman, and the Bureau of Land Management. Since Section R645-301-731.610 was revised most recently, Andalex's intention seems to be to reclaim the road completely if they determine this is the appropriate action after communications with the land owners. However, the conflict between this portion of the application and Section R645-301-330 should be resolved.

Although the road was present before any mining, it may have been an illegal road according to the Division of School and Institutional Trust Lands Administration. The easement from the State says Andalex must surrender the lands in the original land contour and that rehabilitation shall be done with the approval and to the specifications of the State. The second stipulation in the easement says, "GRANTEE shall have sixty (60) days after the expiration of the terms of this easement to remove said access road." This suggests the

portion of the access road on State property should be entirely reclaimed.

Road reclamation was discussed with Gary Bagley of the Division of School and Institutional Trust Lands Administration. He felt, in accordance with the easement requirements, Andalex should commit to complete reclamation of the road. However, at the time of final reclamation, the State may decide it would rather have the road remain.

The mining and reclamation plan contains no comments from the person owning the private land, Gladys Artman. Also, the information submitted with this amendment contains no indication of reclamation requirements for the private land.

The plan contains comments on the postmining land use from the BLM, but they do not address the road issue. The right-of-way says all improvements need to be removed, implying the road only needs to be partially reclaimed. However, if the portion of the road on State land is fully reclaimed, the parts on private and BLM land would be unusable.

Andalex's commitment to reclaim the road conditional upon land owner comments is appropriate. It is anticipated that the land owners will probably want the road left in its current condition following mining.

Findings:

Andalex should resolve the conflict between Sections R645-301-330 and R645-301-731.610 concerning the postmining status of the road. They will need to obtain comments from land owners about this. Otherwise, Andalex has complied with the requirements of this regulation.

RECOMMENDATIONS

Andalex needs to resolve the conflict between Sections R645-301-330 and R645-301-731.610 concerning the postmining status of the road. Otherwise, they have met regulatory requirements of the general contents, biology, and land use portions of the regulations.