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# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801  
(801) 538-5340 telephone  
(801) 359-3940 fax  
(801) 538-7223 TTY  
www.nr.utah.gov

Michael O. Leavitt  
Governor  
Robert L. Morgan  
Executive Director  
Lowell P. Braxton  
Division Director

*Outgoing*  
*1/20/03*  
*OK*

## DIVISION OF OIL, GAS AND MINING FACSIMILE COVER SHEET

DATE: November 20, 2003  
FAX #: 1-435-637-8860  
ATTN: Gordon Whitehead (sp?)  
COMPANY: Andalex  
DEPARTMENT: \_\_\_\_\_  
NUMBER OF PAGES: (INCLUDING THIS ONE) 6  
FROM: Pam Greubach-Little

If you do not receive all of the pages, or if they are illegible, please call (801)538-5340.  
We are sending from a Sharp facsimile machine. Our telecopier number is (801)359-3940.

MESSAGE:  
An old one . . . . But hopefully  
this helps. Any questions,  
please call me. Pam

**Important:** This message is intended for the use of the individual or entity of which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return this original message to us at the above address via regular postal service. Thank you.



RECEIVED

AUG 27 1991

DIVISION OF OIL GAS & MINING

*Copy Pam*

*File # 1015/025 #2*

*Original in file*

Capital City BANK

\* 1-435-637-8860

REPLACEMENT

REPLACEMENT

REPLACEMENT

Department of Natural Resources  
Division of Oil, Gas and Mining  
Att: Pamela Grubaugh-Littig  
3 Triad Center, Suite 350  
355 West North Temple  
Salt Lake City, UT 84180-1203

Date: August 15, 1991

IRREVOCABLE STANDBY LETTER OF CREDIT  
No. 1055 Page 1 of 2

DATE, PLACE OF EXPIRY - July 12, 1992  
at Capital City Bank, 2200 South  
State, Salt Lake City, Utah

PERMIT NO. ~~ACT-015-025~~  
*0/007/019*

*needs  
signature  
close*

C.W. MINING COMPANY aka  
Co-op Mining Company  
53 West Angelo Avenue  
Salt Lake City, Utah 84115

MINE NAME: ~~G.W. MINING COMPANY~~

AMOUNT: US \$290,000.00  
TWO HUNDRED AND NINETY THOUSAND AND  
NO/100

Gentlemen:

On behalf of C.W. MINING COMPANY aka CO-OP MINING COMPANY, we hereby establish our Irrevocable Letter of Credit in your favor, payable in part or full to the State of Utah, Division of Oil, Gas and Mining, available by your draft(s) in an amount not to exceed \$290,000.00. Upon receipt of a written demand by the Division of Oil, Gas and Mining (DOG M) pursuant to ~~Reg~~ 301-880,900, because of any violation of the surface mining control and reclamation act, the regulatory program, the permit and the reclamation plan.

This Letter of Credit is ~~effective August 15, 1991 and will expire at the close of business on July 12, 1992;~~ however, this credit will automatically be extended for periods of one year from any scheduled expiration date (as originally scheduled or automatically extended) unless ninety (90) days prior to such date we notify you in writing by certified mail, return receipt requested, that we elect not to renew this letter of credit for such additional period.

(801) 486-4800

2200 South State Street  
Salt Lake City, Utah 84115

4900 South Highland Drive  
Salt Lake City, Utah 84117

400 South State Street  
Salt Lake City, Utah 84111

3712 West 3500 South  
West Valley City, Utah 84120

1153 East 3900 South  
Salt Lake City, Utah 84124

515 South 700 East  
Salt Lake City, Utah 84102

RECEIVED

Department of Natural Resources  
Division of Oil, Gas and Mining  
August 15, 1991

Page 2 of 2

AUG 27 1991

DIVISION OF  
OIL GAS & MINING

Upon receipt by you of such notice, you may draw on us at sight for the amount of this Letter of Credit beginning 30 days or less prior to the then applicable expiration date, accompanied by a statement signed by DOGM's Bond Approving Officer certifying that the amount of the drawing represents funds due DOGM because the permittee has failed to replace this Letter of Credit by other suitable bond pursuant to ~~REG~~<sup>R614</sup>-301-860.222 and ~~REG~~<sup>R614</sup>-301-870.

We certify that the amount of the credit herein established will not be reduced for any reason during the period of this instrument without the written consent of DOGM.

We will give prompt notice to the permittee and to DOGM's Bond Approving Officer of any notice received or action field alleging the insolvency or bankruptcy of the bank, or alleging any violations of regulatory requirements which could result in suspension or revocation of the Bank's charter or license to do business.

In the event the bank becomes unable to fulfill our obligations under this Letter of Credit for any reason, notice shall be given immediately to the permittee and to DOGM's Bond Approving Officer.

IN WITNESS WHEREOF, the Bank has hereunto set its signature this 15th day of August, 1991.

CAPITAL CITY BANK

x *Barbara S. Losse for Dan J. Bradshaw*  
Barbara S. Losse for Dan J. Bradshaw

THIS IS OPERATIVE DOCUMENT

*al*

*Also need statement that this Letter of Credit is subject to the Uniform Customs Practice for Documentary Credits (1993 Revision) International Chamber of Commerce, Publication No. 500.*

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45-301-850.230.

850.220. Long-term surface disturbances will include long-term coal-related surface facilities and structures, and surface impacts incident to underground coal mining activities which disturb an area for a period that exceeds five years. Long-term surface disturbances include, but are not limited to: surface features of shafts and slope facilities; coal refuse areas; powerlines; boreholes; ventilation shafts; preparation plants; machine shops, roads and loading and treatment facilities.

850.230. To achieve continuous bond coverage for long-term surface disturbances, the bond will be conditioned upon extension, replacement or payment in full, 30 days prior to the expiration of the bond term.

850.240. Continuous bond coverage will apply throughout the period of extended responsibility for successful revegetation and until the provisions of R645-301-880.100 through R645-301-880.800 inclusive have been met.

850.300. Bond Forfeiture. The Division will take action to forfeit a bond pursuant to R645-301-850 if 30 days prior to bond expiration the operator has not filed:

850.310. The performance bond for a new term as required for continuous coverage; or

850.320. A performance bond providing coverage for the period of liability, including the period of extended responsibility for successful revegetation.

860. Forms of Bonds.

860.100. Surety Bonds.

860.110. A surety bond will be executed by the operator and a corporate surety licensed to do business in Utah that is listed in "A.M. Best's Key Rating Guide" at a rating of A- or better or a Financial Performance Rating (FPR) of 8 or better, according to the "A.M. Best's Guide". All surety companies also will be continuously listed in the current issue of the U.S. Department of the Treasury Circular 570.

860.111. Operators who do not have a surety bond with a company that meets the standards of subsection 860.110. will have 120 days from the date of Division notification after enactment of the changes to subsection 860.110. in which to achieve compliance, or face enforcement action.

860.112. When the Division in the course of examining surety bonds notifies an operator that a surety company guaranteeing its performance does not meet the standard of subsection 860.110., the operator has 120 days after notice by mail from the Division to correct the deficiency, or face enforcement action.

860.120. Surety bonds will be noncancellable during their terms, except that surety bond coverage for lands not disturbed may be canceled with the prior consent of the Division. The Division will advise the surety, within 30 days after receipt of a notice to cancel bond, whether the bond may be canceled on an undisturbed area.

860.200. Collateral Bonds.

860.210. Collateral bonds, except for letters of credit, cash accounts and real property, will be subject to the following conditions:

860.211. The Division will keep custody of collateral deposited by the applicant until authorized for release or replacement as provided in R645-301-870 and R645-301-880;

860.212. The Division will value collateral at its current market value, not at face value;

860.213. The Division will require that certificates of deposit be made payable to or assigned to the Division both in writing and upon the records of the bank issuing the certificates. If assigned, the Division

will require the banks issuing these certificates to waive all rights of setoff or liens against those certificates;

860.214. The Division will not accept an individual certificate of deposit in an amount in excess of \$100,000 or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

860.220. Letters of credit will be subject to the following conditions:

860.221. The letter may be issued only by a bank organized or authorized to do business in the United States;

860.222. Letters of credit will be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage will be forfeited and will be collected by the Division if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date;

860.223. The letter of credit will be payable to the Division upon demand, in part or in full, upon receipt from the Division of a notice of forfeiture issued in accordance with R645-301-880.900.

860.230. Real property posted as a collateral bond will meet the following conditions:

860.231. The applicant will grant the Division a first mortgage, first deed of trust, or perfected first lien security interest in real property with a right to sell or otherwise dispose of the property in the event of forfeiture under state law;

860.232. In order for the Division to evaluate the adequacy of the real property offered to satisfy collateral requirements, the applicant will submit a schedule of the real property which will be mortgaged or pledged to secure the obligations under the indemnity agreement. The list will include:

860.232.1. A description of the property;

860.232.2. The fair market value as determined by an independent appraisal conducted by a certified appraiser approved by the Division; and

860.232.3. Proof of possession and title to the real property;

860.233. The property may include land which is part of the permit area; however, land pledged as collateral for a bond under this section will not be disturbed under any permit while it is serving as security under this section.

860.240. Cash accounts will be subject to the following conditions:

860.241. The Division may authorize the operator to supplement the bond through the establishment of a cash account in one or more federally insured or equivalently protected accounts made payable upon demand to, or deposited directly with, the Division. The total bond including the cash account will not be less than the amount required under terms of performance bonds including any adjustments, less amounts released in accordance with R645-301-880;

860.242. Any interest paid on a cash account will be retained in the account and applied to the bond value of the account unless the Division has approved the payment of interest to the operator;

860.243. Certificates of deposit may be substituted for a cash account with the approval of the Division; and

860.244. The Division will not accept an individual cash account in an amount in excess of \$100,000 or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

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23 in order to determine  
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ment signed by two corporate officers who are autho-  
-rized to bind their corporations. A copy of such autho-  
-rization shall be provided to the Division along with  
-an affidavit certifying that such an agreement is valid  
-under all applicable federal and Utah laws. In addi-  
-tion, the guarantor shall provide a copy of the corpo-  
-rate authorization demonstrating that the corpora-  
-tion may guarantee the self bond and execute the  
-indemnity agreement.

860.363. If the applicant is a partnership, joint  
-venture or syndicate, the agreement will bind each  
-partner or party who has a beneficial interest, directly  
-or indirectly, in the applicant;

860.364. Pursuant to R645-301-880.900, the appli-  
-cant, parent or nonparent corporate guarantor shall  
-be required to complete the approved reclamation  
-plan for the lands in default or to pay to the Division  
-an amount necessary to complete the approved recla-  
-mation plan, not to exceed the bond amount.

860.365. The indemnity agreement when under  
-forfeiture will operate as a judgment against those  
-parties liable under the indemnity agreement.

860.370. The Division may require self-bonded ap-  
-plicants, parent and nonparent corporate guarantors  
-to submit an update of the information required under  
-R645-301-860.323 and R645-301-860-324 within 90  
-days after the close of each fiscal year following the  
-issuance of the self bond or corporate guarantee.

860.380. If at any time during the period when a self  
-bond is posted, the financial conditions of the appli-  
-cant, parent, or nonparent corporate guarantor  
-change so that the criteria of R645-301-860.323 and  
-R645-301-860.340 are not satisfied, the permittee will  
-notify the Division immediately and will within 90  
-days post an alternate form of bond in the same  
-amount as the self bond. Should the permittee fail to  
-post an adequate substitute bond, the provisions of  
-R645-301-840.500 will apply.

870. Replacement of Bonds.

870.100. The Division may allow a permittee to  
-replace existing bonds with other bonds that provide  
-equivalent coverage.

870.200. The Division will not release existing per-  
-formance bonds until the permittee has submitted,  
-and the Division has approved, acceptable replace-  
-ment performance bonds. Replacement of a perfor-  
-mance bond pursuant to this section will not consti-  
-tute a release of bond under R645-301-880.100  
-through R645-301-880.800.

880. Requirement to Release Performance Bonds.

880.100. Bond release application.

880.110. The permittee may file an application with  
-the Division for the release of all or part of a perfor-  
-mance bond. Applications may be filed only at times or  
-during seasons authorized by the Division in order to  
-properly evaluate the completed reclamation opera-  
-tions. The times or seasons appropriate for the eval-  
-uation of certain types of reclamation will be identi-  
-fied in the approved mining and reclamation plan.

880.120. Within 30 days after an application for  
-bond release has been filed with the Division, the  
-operator will submit a copy of an advertisement  
-placed at least once a week for four successive weeks  
-in a newspaper of general circulation in the locality  
-of the coal mining and reclamation operations. The ad-  
-vertisement will be considered part of any bond re-  
-lease application and will contain the permittee's  
-name, permit number and approval date, notification  
-of the precise location of the land affected, the number  
-of acres, the type and amount of the bond filed and the  
-portion sought to be released, the type and appropri-

ate dates of reclamation work performed, a descrip-  
-tion of the results achieved as they relate to the  
-operator's approved reclamation plan and the name  
-and address of the Division to which written com-  
-ments, objections, or requests for public hearings and  
-informal conferences on the specific bond release may  
-be submitted pursuant to R645-301-880.600 and  
-R645-301-880.800. In addition, as part of any bond  
-release application, the applicant will submit copies of  
-letters which he or she has sent to adjoining property  
-owners, local governmental bodies, planning agencies,  
-sewage and water treatment authorities, and water  
-companies in the locality in which the coal mining and  
-reclamation operation took place, notifying them of  
-the intention to seek release from the bond.

880.130. The permittee shall include in the applica-  
-tion for bond release a notarized statement which  
-certifies that all applicable reclamation activities  
-have been accomplished in accordance with the re-  
-quirements of the Act, the regulatory program, and  
-the approved reclamation plan. Such certification  
-shall be submitted for each application or phase of  
-bond release.

880.200. Inspection by the Division.

880.210. Upon receipt of the bond release applica-  
-tion, the Division will, within 30 days, or as soon  
-thereafter as weather conditions permit, conduct an  
-inspection and evaluation of the reclamation work  
-involved. The evaluation will consider, among other  
-factors, the degree of difficulty to complete any re-  
-maining reclamation, whether pollution of surface  
-and subsurface water is occurring, the probability of  
-future occurrence of such pollution and the estimated  
-cost of abating such pollution. The surface owner,  
-agent or lessee will be given notice of such inspection  
-and may participate with the Division in making the  
-bond release inspection. The Division may arrange  
-with the permittee to allow access to the permit area,  
-upon request of any person with an interest in bond  
-release, for the purpose of gathering information  
-relevant to the proceeding.

880.220. Within 60 days from the filing of the bond  
-release application, if no public hearing is held pur-  
-suant to R645-301-880.600, or, within 30 days after a  
-public hearing has been held pursuant to R645-301-  
-880.600, the Division will notify in writing the per-  
-mittee, the surety or other persons with an interest in  
-bond collateral who have requested notification under  
-R645-301-860.260 and the persons who either filed  
-objections in writing or objectors who were a party to  
-the hearing proceedings, if any, if its decision to  
-release or not to release all or part of the performance  
-bond.

880.300. The Division may release all or part of the  
-bond for the entire permit area if the Division is  
-satisfied that all the reclamation or a phase of the  
-reclamation covered by the bond or portion thereof  
-has been accomplished in accordance with the follow-  
-ing schedules for reclamation of Phases I, II and III:  
880.310. At the completion of Phase I, after the  
-operator completes the backfilling and regrading  
-(which may include the replacement of topsoil) and  
-drainage control of a bonded area in accordance with  
-the approved reclamation plan, 60 percent of the bond  
-or collateral for the applicable area;

880.320. At the completion of Phase II, after revege-  
-tation has been established on the regraded mined  
-lands in accordance with the approved reclamation  
-plan, an additional amount of bond. When determin-  
-ing the amount of bond to be released after successful  
-revegetation has been established, the Division will



\*\*\*\*\* P. 01 \*\*\*\*\*  
 \* TRANSACTION REPORT \*  
 \* NOV-20-2003 THU 11:09 AM \*  
 \* FOR: OIL, GAS & MINING 801 359 3940 \*  
 \* DATE START RECEIVER TX TIME PAGES TYPE NOTE M# DP \*  
 \* NOV-20 11:05 AM 14356378860 3' 49" 6 SEND OK 728 \*  
 \* TOTAL : 3M 49S PAGES: 6 \*  
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**State of Utah**  
 DEPARTMENT OF NATURAL RESOURCES  
 DIVISION OF OIL, GAS AND MINING

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Michael O. Leavitt  
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 Division Director

**DIVISION OF OIL, GAS AND MINING  
 FACSIMILE COVER SHEET**

DATE: November 20, 2003  
 FAX #: 1-435-637-8860  
 ATTN: Eldon Whitehead (sp?)  
 COMPANY: Andalex  
 DEPARTMENT: \_\_\_\_\_  
 NUMBER OF PAGES: (INCLUDING THIS ONE) 6  
 FROM: Pam (P. Braxton) 11/20/03