

From: "Carl Johnston" <cjohnsto@osmre.gov>
To: <George_Tetreault@blm.gov>, <James_Kohler@blm.gov>, <creed01@fs.fed.us>, <Diana_Whittington@fws.gov>, <laura_romin@fws.gov>, <DARONHADDOCK@utah.gov>, <pamgrubaughlittig@utah.gov>, <sheilamorrison@utah.gov>
Date: 5/26/04 10:09AM
Subject: Mine Plan Determination - Wildcat Loadout

Attached is OSM's final decision regarding the need for a Mining Plan Modification for the above subject. A signed copy was mailed out May 24, 2004..

In accordance with the Federal regulations under 30 CFR 740.13(d), other Federal agencies that may have an interest in, or jurisdiction over, the above subject operation have also been notified of OSM's decision electronically.

No responses to this transmittal are necessary.

Carl R. Johnston
Natural Resource Specialist
OSMRE / WRCC / PSD / NWB
P.O. Box 46667
Denver, CO 80201-6667

Courier Delivery to: 1999 Broadway, Suite 3320

303 / 844-1400 - ext. 1500
Fax: 303 / 844-1538
e-mail: CJOHNSTO@OSMRE.GOV

CC: "Mitchell Rollings" <MROLLING@osmre.gov>, "Ranvir Singh" <RSINGH@osmre.gov>

UT-0074

May 24, 2004

Utah Division of Oil, Gas, & Mining
Coal Regulatory Program
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

RE: Andalex Resources, Inc. - "Wildcat Loadout" Mine - Application for a Permit Revision,
Permit Rewrite

Dear Sir or Madam:

This in response to the Utah Division of Oil, Gas, & Mining's (UT-DOGM) April 21, 2004, request for a decision, under 30 CFR 944.30, whether the above subject permit revision constitutes a mining plan modification.

Mining plan approvals by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on Federal lands. This letter serves to document OSM's determination whether or not a mining plan approval from the Secretary is required for the above permitting action.

OSM's review of the Application for a Permit Revision, Permit Reformat, has determined that it proposes to rewrite and reformat the entire mining and reclamation plan to conform to with R-645 of the Utah Administrative Code at the Wildcat Loadout mine, Utah State permit C/007/033.

Based on a review of the activities associated with the permit revision, OSM has determined that the proposal does not meet the requirements of 30 CFR 746.18(d). Therefore, the proposed permit revision does not constitute a mining plan action requiring Secretarial approval.

OSM's decision was based solely upon the Federal regulations under 30 CFR PART 746 and not the technical aspects of the revision application itself. Consequently, OSM's decision does not relieve UT-DOGM from coordinating the review and approval of the Application for a Permit Revision, Permit Rewrite with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the April 21, 2004 request to the Bureau of Land Management and the U.S. Forest Service for their review and comment.

The U.S. Forest Service did not provide any comments in the thirty day time frame established by the Federal regulations under 30 CFR 944.30, Article VI. D.

In an electronic transmittal dated May 12, 2004 the Bureau of Land Management stated in it's opinion the Permit Rewrite permit revision did not does not constitute a mining plan action requiring Secretarial approval.

Please notify the applicant of our decision on this matter.

Should you have any questions regarding this letter or approval, please contact Carl R. Johnston, Utah Federal Lands coordinator, at (303) 844-1400, extension 1500.

Sincerely,

Ranvir Singh
Manager, Northwest Branch

cc: Denver Field Division