

# TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

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June 22, 2004

TO: Internal File OK

THRU: Pete Hess, Inspector, Lead *PHH lyan*

FROM: Jerriann Ernstsens, Ph.D., Environmental Specialist II, Biologist *JE*

RE: MRP Rewrite Wildcat Loadout, Andalex Resources, Inc., C/007/033-AM03A, #1911.

## SUMMARY

The Division received an amendment for reformatting the MRP on April 8, 2004. This memo describes the editorial review of the biology and cultural sections. The Division also conducted a minor technical review on newly submitted material. Earlier deficiencies from the technical review (DOGM, TA, July 8, 2003) of previously submitted material are still topics of concern.

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**TECHNICAL ANALYSIS:**

## GENERAL CONTENTS

### PERMIT APPLICATION FORMAT AND CONTENTS

Regulatory Reference: 30 CFR 777.11; R645-301-120.

**Analysis:**

Page xviii of the table of contents references 27 plates. The Permittee must update the correct number of plates (R645-301-121.200).

The newly formatted MRP refers many of the sections from 301-311 through 301-322, 301-232, and 301-322 through 301-358 to appendices or sections 301-310 and 301-240 or assigns the sections as "not applicable. Consequently, there are minor problems with the new format that include referenced material in sections unrelated to the regulation, referenced material is missing from sections/appendices, and reference material is incorrectly labeled as not applicable (NA). The Permittee must address these formatting issues to present the narrative more clearly (R645-301-121.200). The following list provides some of the areas to address:

- Relocate the letter from NRCS from the back of Chapter 4 to an appendix and reference the new location in related sections (soils and vegetation).
- 310-321-200 refers to Appendix I, which does not provide productivity values (see pg. 4 of Appendix I).
- Pg. 3.10 refers incorrectly to "Chapter IV".
- Information in the Fish and Wildlife Plan is more appropriate for sections in Operations.
- Fish and Wildlife Source Data information is apparently missing from Chapter 3 (referenced on pg. 3.4).
- 301-313 refers to 301-240, which does not address regulation 301-313.
- 301-322.300 refers to Appendix F, which does not provide correspondence with the USFWS who oversees TES species. (UDWR is not the regulating agency.)
- Appendix F does not address section 301-342.210.
- Pest management information belongs in the 301-357.320 series.
- Most discussions on success standards belong at least in the 301-356 series.
- Equation on page 3.25 is misleading –  $(dx)^2$  belongs in the equation.
- 301-356.100 through 301-356.200 should reference page 3.25.
- 301-240 and 301-331 do not directly address 301-356.120, 301-356.200, and 301-356.210.

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- 301-240 does not address or directly address the following:
  - 301-356.230 series.
  - 301-357.311 and 301-357.312.
  - 301-357.340 series.
  - 301-357.360 series.
- Briefly, address why husbandry practices and bonding are not applicable for this application (301-357.300 through 301-357.310).
- No response for 301-357.310.
- Information related to 301-357.350 is in 301-240.
- Direct quotes from the Utah Coal Regulations do not substitute for addressing the following sections. Provide brief reasons how the Permittee plans to address related requirements (such as provided for 301-354).
  - 301-353.120: Exactly where are non-natives necessary?
  - 301-353.130: Which area - the reference area?
  - 301-353.140: The rates must be in plants per square foot to determine adequate stabilization. Modify the units for final see mix table.
  - 301-353.210: Species Y are great for the proposed PMLU of....
  - 301-353.220: Are some cool and warm season species?
  - 301-353.240: Some of the selected species may not be compatible e.g., alfalfa or sweetclover (see Reclamation section for direction).
  - 301-353.250: Fax seed tag to the Division.
- 301-232 refers to a map/aerial photo in Appendix F, which is missing.

### Findings

Information provided in the application is not adequate to meet the minimum Permit Application Format and Contents section of the General Contents regulations. Prior to approval, the Permittee must act in accordance with the following:

**R645-301-121.200**, Update the correct number of plates in the table of contents.

**R645-301-121.200**, Address these formatting issues to present the narrative more clearly

### REPORTING OF TECHNICAL DATA

Regulatory Reference: 30 CFR 777.13; R645-301-130.

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**Analysis:**

The contents in the technical reports are the same and still in the folder of the old MRP appendix section. The Division suggests providing a copy of these appendices in the new MRP folder for ease of reading.

**Findings:**

Information provided in the application is adequate to meet the minimum Reporting of Technical Data section of the General Contents regulations.

**MAPS AND PLANS**

Regulatory Reference: 30 CFR 777.14; R645-301-140.

**Analysis:**

Biological and cultural maps are the same and still in the folder of the old MRP appendix section or the folder with Plates.

**Findings**

Information provided in the application is adequate to meet the minimum Maps and Plans section of the General Contents regulations.

**COMPLETENESS**

Regulatory Reference: 30 CFR 777.15; R645-301-150.

**Analysis:**

Minor problems with the new format relate to completeness parameters. (See R645-301-121.200 for deficiency.)

**Findings:**

Information provided in the application is not adequate to meet the minimum Completeness section of the General Contents regulations. (See R645-301-121.200 for deficiency.)

## ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

### HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

#### **Analysis:**

All matters concerning Historic and Archeological Resources are the same in the newly formatted version. The Permittee must relocate any historical and archeological survey reports to the confidential file (R645-301-411.144).

#### **Findings:**

Information provided in the application is not adequate to meet the minimum Historic and Archeological Resource Information section of the Environmental Resource Information regulations. Prior to approval, the Permittee must act in accordance with the following:

**R645-301-411.144**, Relocate any archeological survey reports to the confidential file. Copies of the correspondence letters (Appendix B) with SHPO should accompany the reports.

### VEGETATION RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.19; R645-301-320.

#### **Analysis:**

Minor problems with the new format relate to vegetation resource – environmental information criteria. (See R645-301-121.200 for deficiency.)

#### **Findings:**

Information provided in the application is not adequate to meet the minimum Vegetation Resource Information section of the Environmental Resource Information regulations. (See R645-301-121.200 for deficiency.)

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## **FISH AND WILDLIFE RESOURCE INFORMATION**

Regulatory Reference: 30 CFR 784.21; R645-301-322.

### **Analysis:**

Minor problems with the new format relate to fish and wildlife resource – environmental information criteria. (See R645-301-121.200 for deficiency.)

The Permittee must address the deficiencies (TA July 8, 2003) related to TES species. The Division will discuss this pending issue with the Permittee at a later date.

### **Findings:**

Information provided in the application is not adequate to meet the minimum Fish and Wildlife Resource Information section of the Environmental Resource Information regulations. (See R645-301-121.200 for deficiency.)

## **MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION**

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

### **Analysis:**

Information from this section is the same as the old MRP, which both refer to missing material.

### **Findings:**

Information provided in the application is not adequate to meet the minimum Maps, Plans, and Cross Section Resource Information section of the Environmental Resource Information regulations. (See R645-301-121.200 for deficiency.)

## OPERATION PLAN

### FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

#### Analysis:

Minor problems with the new format relate to fish and wildlife – operations criteria. (See R645-301-121.200 for deficiency.)

#### Protection and Enhancement Plan

No changes to the information from the old MRP. One of the largest problems that Wildcat faces still faces, is the build up of coal fines off the permit boundary. The Permittee must address this issue in the near future.

#### Endangered and Threatened Species

The Permittee must address the possible adverse effects to the four Colorado River endangered fish species: the Colorado pikeminnow, the humpback chub, the bonytail chub, and the razorback sucker( R645-301-322; -333, -358.100). Calculate the amount of water used by operations including: evaporation from ventilation; dust control; coal preparation; sediment pond evaporation; postmining inflow to workings; coal moisture loss; and direct diversions. The U.S. Fish and Wildlife Service require mitigation if the loss is greater than 100 acre-feet per year.

#### Findings:

Information provided in the application is not adequate to meet the minimum Fish and Wildlife Information section of the Operation Plan regulations. Prior to approval, the Permittee must address the deficiency in Permit Application Format and Contents and address the following:

**R645-301-322; -333, -358.100**, Provide water consumption values for all operations including dust control.

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Regulatory Reference: R645-301-330, -301-331, -301-332.

**Analysis:**

Minor problems with the new format relate to vegetation – operations parameters. (See R645-301-121.200 for deficiency.)

No changes to the information from the old MRP. The Permittee must still address questions concerning the substitution of topsoil with fill material.

**Findings:**

Information provided in the application is not adequate to meet the minimum Vegetation section of the Operation Plan regulations. (See R645-301-121.200 for deficiency.)

## **RECLAMATION PLAN**

### **GENERAL REQUIREMENTS**

Regulatory Reference: PL 95-87 Sec. 515 and 516; 30 CFR Sec. 784.13, 784.14, 784.15, 784.16, 784.17, 784.18, 784.19, 784.20, 784.21, 784.22, 784.23, 784.24, 784.25, 784.26; R645-301-231, -301-233, -301-322, -301-323, -301-331, -301-333, -301-341, -301-342, -301-411, -301-412, -301-422, -301-512, -301-513, -301-521, -301-522, -301-525, -301-526, -301-527, -301-528, -301-529, -301-531, -301-533, -301-534, -301-536, -301-537, -301-542, -301-623, -301-624, -301-625, -301-626, -301-631, -301-632, -301-731, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-732, -301-733, -301-746, -301-764, -301-830.

**Analysis:**

Minor problems with the new format relate to vegetation-related parameters for reclamation. (See R645-301-121.200 for deficiency.)

The Permittee must modify the interim and final seed mix in the MRP to exclude non-natives or overly aggressive species (R645-301-353.120).

**Findings:**

Information provided in the application is not adequate to meet the minimum General Requirements section of the Reclamation Plan regulations. Prior to approval, the Permittee must address the deficiency in Permit Application Format and Contents and address the following:

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**R645-301-353.120**, Omit the following species from the interim and final seed mixes: crested wheatgrass, Russian wildrye, forage kochia, alfalfa, and yellow sweetclover as well as reduce seed rate of whitestem rabbitbrush. The Permittee must present the seed mix lists in table format, which include botanical and common names, pure live seed per foot, pure live seed per acre, total pure live seed per foot, total pure live seed per acre.

**RECOMMENDATIONS:**

Do not approve the MRP until all deficiencies have been addressed.