

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

November 3, 2011

TO: Internal File

THRU: Daron Haddock, Coal Program Manager *DH*

FROM: Steve Christensen, Environmental Scientist *SC*

RE: Chapter 1 Revisions, Wildcat Loadout, Intermountain Power Agency, C/007/0033, Task ID #3943

SUMMARY:

On October 24th, 2011, the Division of Oil, Gas and Mining received a revised Chapter 1 for the Wildcat Loadout facility. Intermountain Power Agency (the Permittee) recently acquired the facility and permit from Andalex Resources, LLC. The Division received a copy of the transfer agreement between Andalex Resources, Inc. and Intermountain Power Agency (IPA) on May 16th, 2011. Additionally, the Permittee posted a reclamation bond with the Division on June 27th, 2011.

As a condition of the permit transfer approval, the Permittee was required to submit revised Chapter 1 information for insertion into the approved Mining and Reclamation Plan (MRP) so that it adequately reflects the new ownership and control of the facility. The information was to be submitted within 60 days of the issuance of the permit.

The following memo reviews the administrative sections of the State of Utah R645-Coal Mining Rules. Deficiencies were identified during the review and must be addressed prior to final Division approval:

R645-301-113: The Permittee must remove the Andalex Resources LLC (and its affiliated entities) violation history from Appendix B Part B. The information is not longer valid. (SC)

R645-301-114.100: The Permittee must supplement the Right of Entry information in Chapter 1 page 1-9 with a description of the documents upon which the applicant bases their legal right to enter and begin coal mining and reclamation operations. The description will identify the documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant. The Permittee must also provide the date the transfer document was recorded with the Carbon County Recorders office and the corresponding page of entry. (SC)

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TECHNICAL ANALYSIS:

GENERAL CONTENTS

VIOLATION INFORMATION

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

Analysis:

The amendment does not meet the Violation Information requirements of the State of Utah R645-Coal Mining Rules.

On September 29th, 2011, the Division requested an Office of Surface Mining (OSM) Applicant Violator System check. The AVS check performed by OSM did not identify any violations that were outstanding for Intermountain Power Agency and its affiliates.

However, the MRP contains violation history information for the previous Permittee (Andalex Resources, LLC.) in Appendix B Part B. The Permittee must remove the Andalex Resources LLC (and its affiliated entities) violation history from Appendix B Part B. The information is not longer valid.

Findings:

The amendment does not meet the Violation Information requirements of the State of Utah R645-Coal Mining Rules. The following deficiency must be addressed:

R645-301-113: The Permittee must remove the Andalex Resources LLC (and its affiliated entities) violation history from Appendix B Part B. The information is not longer valid.

RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

Analysis:

The amendment does not meet the Right of Entry requirements of the State of Utah R645-Coal Mining Rules.

The Division received a copy of the transfer agreement between Andalex Resources, Inc. and Intermountain Power Agency (IPA) on May 16th, 2011. Additionally, the Permittee posted a reclamation bond with the Division on June 27th, 2011. The Permittee must supplement the Right of Entry information in Chapter 1 page 1-9 with a description of the documents upon which the applicant bases their legal right to enter and begin coal mining and reclamation operations. The description will identify the documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant. The Permittee must also provide the date the transfer document was recorded with the Carbon County Records office and the page of entry.

Findings:

The amendment does not meet the Right of Entry requirements of the State of Utah R645-Coal Mining Rules. The following deficiency must be addressed:

R645-301-114.100: The Permittee must supplement the Right of Entry information in Chapter 1 page 1-9 with a description of the documents upon which the applicant bases their legal right to enter and begin coal mining and reclamation operations. The description will identify the documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant. The Permittee must also provide the date the transfer document was recorded with the Carbon County Records office and the page of entry.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

Analysis:

The amendment meets the Legal Description and Status of Unsuitability Claims requirements of the State of Utah R645-Coal Mining Rules.

The permit area is not located with an area designated unsuitable for the effects of mining activities and coal loading activities. Additionally, no occupied dwellings are located within 300 feet of the permit.

The permit area is 100.19 acres of which 12.5 acres are under a right of way agreement between the Utah Railway and the Bureau of Land Management (See page 1-9). A legal description of the permit area is provided in Section R645-301-114.

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Findings

The amendment meets the Legal Description and Status of Unsuitability Claims requirements of the State of Utah R645-Coal Mining Rules.

PERMIT TERM

Regulatory References: 30 CFR 778.17; R645-301-116.

Analysis:

The amendment meets the Permit Term requirements of the State of Utah R645-Coal Mining Rules.

On page 1-12 of the amendment, the Permittee indicates that *“The requested term of this permit is five years. Intermountain Power Agency will then apply for five year extensions over the life of this operation.”*

Findings:

The amendment meets the Permit Term requirements of the State of Utah R645-Coal Mining Rules.

PUBLIC NOTICE AND COMMENT

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

Analysis:

The amendment meets the Public Notice and Comment requirements of the State of Utah R645-Coal Mining Rules.

The application for transfer of permit from Andalex Resources, LLC to IPA was advertised in the Sun Advocate beginning on March 1st, 2011 and ending on March 31st, 2011. The public was provided an opportunity to provide comment on the transfer application. No comments were received. Additionally, an affidavit of publication was received by the Division on March 9th, 2011.

Findings:

The amendment meets the Public Notice and Comment requirements of the State of Utah R645-Coal Mining Rules.

RECOMMENDATIONS

The amendment is not recommended for approval.

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