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

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June 16, 1995

TO: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist *PRB*

RE: Draft Review, Mining and Reclamation Plan Technical Analysis, Willow Creek Mine, Cyprus Plateau Mining Corporation, PRO/007/038, Working File, Carbon County, Utah #2

## SYNOPSIS

On May 11, 1995, Cyprus Plateau Mining Corporation submitted an application to mine areas to the east of the Price River north of the confluence with Willow Creek. The mine portals would be near Willow Creek. Other surface facilities would include the permitted Castle Gate Preparation Plant and associated loadout, the Gravel Canyon topsoil pile, and part of the facilities in Crandall Canyon.

In the section of the application addressing R645-301-100, Cyprus has not submitted complete mineral rights ownership and right of entry information for the entire proposed permit area. There are a few other relatively minor problems with this portion of the application, but it is otherwise complete, accurate, and well-presented.

## ANALYSIS

### IDENTIFICATION OF INTERESTS, VIOLATION INFORMATION, AND RIGHT OF ENTRY INFORMATION

Regulatory Reference: UCA R645-301-112; R645-301-113; R645-301-114

#### Analysis:

##### Identification of Interests

Cyprus Plateau Mining Corporation (Cyprus) submitted this mining and reclamation permit application. Cyprus is a wholly owned subsidiary of, in ascending order, Cyprus Western Coal Company, Cyprus Amax Coal Company, Amax Energy, Inc., and Cyprus Amax Minerals Company. Cyprus, as the applicant, is authorized to do business in Utah.

The application shows the applicant's address, telephone number, and employer identification number. Cyprus will be responsible for payment of the abandoned mine land



reclamation fee. The resident agent is CT Corporation System of Salt Lake City, Utah. The main MSHA number will be 42-02113; some facilities will have separate MSHA numbers.

Figure 2.1-1 is an organizational chart for Cyprus Amax Minerals Company. Exhibit 1 contains lists of operations affiliated with the applicant and with G. R. Spindler, an officer of Amax Coal Company. The information in this section of the application is complete.

Table 2.1-1 is a summary of corporate information and shows addresses, telephone numbers, and employer identification numbers for Cyprus Amax Minerals Company, Amax Energy Company, Cyprus Amax Coal Company, Cyprus Western Coal Company, and Cyprus Plateau Mining Corporation. This table also shows the names, most social security numbers, titles, and dates positions were assumed for the officers and directors of these companies.

Surface and mineral ownership information is presented in Section 2.1.2.4 and on Maps 1 and 2. Much of the surface land in the proposed permit area is owned by Blackhawk Coal Company and leased to Cyprus Western Coal Company either directly or through Amax Land Company and Amax Coal Company. Amax Coal Company leases the Castle Gate Preparation Plant and loadout and the Gravel and Crandall Canyon areas from Blackhawk. Cyprus will manage the lands for mining use under operating agreements with Cyprus Western Coal Company and Amax Coal Company.

The Utah Department of Transportation (UDOT) owns land contiguous to the permit area. On Map 1, their small piece of land has the symbols for both UDOT and Cyprus Western Coal Company by lease from Blackhawk Coal Company. This minor error should be corrected. Otherwise, Map 1 corresponds with information in the application text.

Map 2 shows regional coal ownership. The text has a list of legal and equitable owners of record of the coal to be mined within the proposed permit area.

The regulations require a list of the names and addresses of all owners of mineral rights within and contiguous to the proposed permit area. The only entities listed in the text are the State of Utah, the Bureau of Land Management, Carbon County, and Blackhawk Coal Company. Map 2 includes areas labelled as "Mathis" and "Other." "Other" is described in the legend as private or county leases; however, the right of entry information does not show who owns the coal rights on this land. Map 1 lists a Mathis group that owns the surface above the area labelled "Mathis" on the coal ownership map, but there is nothing in the text showing who owns the mineral rights.

The application does not discuss or show on Map 2 who owns subsurface rights contiguous to the proposed permit area. This information is required by R645-301-112.600.

As discussed under "Right of Entry" below, Cyprus does not present right of entry information for two federal leases in the north part of the permit area. The Division cannot allow mining in these areas without right of entry information. Options include requiring Cyprus to excise the proposed leases from the proposed permit area, proceeding with permit review under the assumption that Cyprus may obtain necessary rights before the Division is ready to issue a permit, and conditioning any approval on no mining in these areas until Cyprus has appropriate right to enter.

#### Violation Information

Compliance information is presented in Section 2.1.4 and Exhibit 2. Neither the applicant nor any affiliate, subsidiary or persons controlled by or under common control with the applicant has had a federal or state mining permit suspended or revoked in the five years prior to the date of the application, and these entities have not forfeited a mining bond or similar security deposited in lieu of bond.

Exhibit 2 contains information not required by the regulations. This is not considered a deficiency. R645-301-113.300 requires the application to include a list of all violation notices received by the applicant (Cyprus Plateau Mining Company) within three years preceding the date of the application. In Exhibit 1, the only operation listed with the applicant as permittee is the Star Point Mine. The application only needs a complete notice of violation list for this one operation.

R645-301-113.300 also requires a list of all unabated cessation orders and air and water quality violation notices received by the applicant or any operation owned or controlled by either the applicant or any person that owns or controls the applicant. The status of several violation notices is listed as "pending." It is assumed that the various operations are working within required abatement schedules to complete abatement. Any failure to abate cessation orders or similar unabated violation notices should be highlighted.

#### Right of Entry

Cyprus's application says right of entry for surface lands and coal extraction is based on operating agreements with Cyprus Western Coal Company and Amax Coal Company. Cyprus Western Coal Company has leased or subleased surface and underground rights from Blackhawk Coal Company under terms of a November 1, 1993, agreement. Amax Coal Company holds leases for the Castle Gate Preparation Plant and its associated loadout and the Gravel and Crandall Canyon areas. These leases were made with Price River Coal Company and Blackhawk Coal Company in a January 31, 1986, agreement.

Section 2.1.5.1 has legal descriptions for leased areas in the proposed permit area.

There are several problems in the section of the application showing legal descriptions of the coal and surface leases. A few of the problems listed below are probably typographical or similar errors. However, the applicant needs to clarify its right to conduct mining and reclamation operations in several areas.

1. On page 2.1-20, under the heading "Fee Coal - Blackhawk," the application has a description for certain lands in Township 12 South, Range 9 East, Section 36. Toward the end of this description, it says, "NW/4." This should probably be NW/4 SW/4.
2. Map 2 shows federal lease SL048442-050115, but the text refers to lease SL048442-040115.
3. Under the heading, "Leased Surface and Coal - Blackhawk," where the application has legal descriptions for lease SL048442-040115, the application lists exceptions for a partial assignment to Amca Coal Leasing for the Centennial Seam only. Andalex Resources, Inc., or Amca Coal Leasing, has acquired rights to mine all seams in this area.
4. In Township 13 South, Range 11 East, Map 2 shows the permit area extending into the W $\frac{1}{2}$  W $\frac{1}{2}$  of Section 1. All of this section is in Andalex's permit area, and the Cyprus application gives no right of entry information for anything but the SW $\frac{1}{4}$  of this section. Cyprus needs to explain its right to enter and begin mining operations in this area.
5. Around the northern and eastern perimeter of the proposed permit area as shown on Map 2 is a piece of land included in the proposed permit area but for which Cyprus includes no right of entry information.
6. The application includes no right of entry information for several small pieces of land shown on Map 2 as being in the proposed permit area. These are:
  - a. Land labelled "Mathis" in Sections 26, 27, 34 and 35 of Township 12 South, Range 10 East.
  - b. An unlabelled piece of land in Section 6, Township 13 South, Range 10 East.
  - c. Pieces of land labelled "Other" in Sections 8 and 9, Township 13 South, Range 10 East.
  - d. The Carbon County Lease in Section 8, Township 13 South, Range 10

East.

- e. The "Fee Coal" area in Sections 7 and 8, Township 13 South, Range 10 East.
7. The application does not give right of entry information for the place(s) where the Crandall Canyon road crosses Bureau of Land Management property.
8. There are a few problems in the way Map 2 was drawn that should be corrected.
  - a. Map 2 shows the Mathis property extending into Section 27, Township 12 South, Range 10 East. According to legal descriptions in the application, all of Section 27 is in the federal lease.
  - b. The southern boundary of the 80 acres of fee coal in Section 6, Township 13 South, Range 10 East is shown extending into Section 7. This does not appear to be correct.
  - c. Map 2 does not show a boundary between federal lease SL048442-050115 (assuming that's the correct number) and the fee coal in Section 4, Township 13 South, Range 10 East.
  - d. Map 2 does not show who owns coal rights to the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 28, Township 12 South, Range 10 East. The text shows it is part of a Carbon County lease.

In addition, there are two proposed federal lease areas on the north side of the proposed permit area. Coal in these areas is apparently not leased, and Cyprus does not describe its right to enter and begin mining operations in the areas. The Division cannot allow these areas to be mined but could potentially condition permit issuance on obtaining requisite approval before mining.

Not all of the land described in the application is within the proposed permit area. Some of it is in the Castle Gate permit area. The reason for including these descriptions in this application is unknown. If Cyprus needs to leave descriptions of these areas in the application, they should include a statement that the areas are not within the proposed permit area.

There are a few differences between the information presented in the section "Leased Surface and Coal - Amax Coal Company/Amax Land Company" and the information on Map 2. The application shows lease SL-021737, but the map has lease SL071737. The

application shows lease SL-029093-046653, but the map has lease SL029093-046650. Also, lines 5 and 6 are identical; one of them is probably intended to be lease U-25485.

**Findings:**

The application is complete and accurate with the following exceptions:

1. Map 1 shows a small area of land belonging to both the Utah Department of Transportation and Cyprus Western Coal Company by lease from Blackhawk Coal Company.
2. The application needs to list names and addresses of all owners of mineral rights in and contiguous to the proposed permit area. Map 2 includes areas labelled "Mathis" and "Other" that do not have corresponding names or addresses in the text.
3. The application needs to include right of entry information for the entire proposed permit area. No right of entry information is presented for several areas, including two proposed federal leases. The proposed permit area overlaps with the Andalex permit area to the east, and the Willow Creek application indicates Andalex only has rights to mine the Centennial Seam in this area. Andalex has acquired rights to all seams in this part of its permit area. Several typographical, mapping, and similar errors need to be corrected.

**UNSUITABILITY CLAIMS**

Regulatory Reference: UCA R645-301-115

**Analysis:**

To the best of the applicant's knowledge, the permit area is not within and does not include any area designated or under current study for designation as unsuitable for mining. No operations are proposed within 300 feet of an occupied dwelling, but portions of the mine surface facilities would be within 100 feet of a public road. The application says this road is State Highway 191, but it is a U. S. Highway.

In compliance with R645-103-234.100 through 400, Cyprus has contacted and commits to obtain approval from the Utah Department of Transportation for its operations. On May 11, 1995, a public hearing was held in the Carbon County Courthouse concerning the operations within 100 feet of the public road. The application includes a copy of a letter requesting that the Division hold a public hearing and a copy of the Division's notice. The

hearing was attended by Lowell Braxton of the Division who documented it in a memorandum to file. His memorandum incorrectly said Amax Coal Company is proposing the Willow Creek Mine rather than Cyprus, but he cited the correct mine number (PRO/007/038). According to the memorandum, eight people attended the hearing, and two opportunities were provided for comment. Everyone in attendance declined comments.

Considering that no comments were received at the public hearing and that Cyprus has committed to obtain necessary approvals from the Utah Department of Transportation to conduct mining and reclamation operations within 100 feet of Highway 191, the Division should find that the interests of the public and affected landowners are being protected.

The Division is unaware of any designation of the area as unsuitable for mining. Through the review and public comment periods, government agencies and the public will have the opportunity to petition that any area be designated as unsuitable.

**Findings:**

This portion of the application is complete and accurate. Based on the lack of comments in the public hearing and on Cyprus's commitment to obtain approval from the Utah Department of Transportation to conduct mining and reclamation operations within 100 feet of a public road, the Division should find that the interests of the public and affected landowners are being protected from the proposed coal mining and reclamation operation.

**PERMIT TERM, INSURANCE, PROOF OF PUBLICATION, FACILITIES OR STRUCTURES USED IN COMMON, FILING FEE, NOTARIZED SIGNATURE**

Regulatory Reference: UCA R645-301-116; R645-301-117; R645-301-118; R645-301-123

**Analysis:**

**Permit Term**

The application is for an initial permit term of five years beginning from the date of permit approval and issuance. It says Cyprus has submitted complete information for the entire anticipated life of the Willow Creek Mine to support future permit renewals.

In meetings with the Division, Cyprus and its consultant's personnel have indicated they intend to eventually reopen the Crandall Canyon shafts and mine in this area. Although the plans are tentative, the blanket statement that this application is for the entire anticipated life of the mine is not entirely correct. It would be more accurate to qualify this statement with a comment that Cyprus may seek to include additional areas in the permit area in the

future.

### Insurance

The application says Cyprus will obtain and provide the Division with a certificate of insurance prior to initiation of development and mining activities. Based on this commitment, the Division can determine this portion of the application administratively complete, but, before the Division issues a permit, Cyprus will need to submit an insurance certificate or other evidence showing they have met the insurance requirements of R645-301-800.

### Proof of Publication

The application says a copy of the proposed newspaper advertisement for the permit application is in Exhibit 3. Upon receipt of notification that the Division has determined the permit application to be administratively complete, Cyprus will place the advertisement in the "Sun Advocate" at least once per week for four weeks. A copy of the proof of publication will be provided to the Division after the last date of publication.

Exhibit 3 does not contain a copy of the proposed newspaper advertisement. The application is not required to contain a copy of the newspaper advertisement until after advertising is completed. It is strongly recommended that Cyprus submit a copy of the proposed advertisement before actually advertising. In the meantime, the statement in Section 2.1.8.2 that a copy of the proposed advertisement is in the application is incorrect.

### Facilities or Structures Used in Common

Cyprus plans to use the Castle Gate Preparation Plant, associated loadout, and may use the Crandall and Gravel Canyon areas to meet potential ventilation and reclamation needs. These areas are included in the approved Castle Gate mining and reclamation plan. Plans for these facilities are included in the Willow Creek application. The application says that, during an interim period following review and approval of the Willow Creek application and during development of the Willow Creek Mine, the shared facilities may be included in and bonded under both the Willow Creek and Castle Gate permits. Cyprus anticipates that a permit revision will be submitted to eliminate the shared facilities from the Castle Gate permit.

These commitments satisfy the requirements of R645-301-117.300.

### Filing Fee

The Division has on file a copy of the check paid for the filing fee.

### Notarized Signature

The application says the required notarized signature of a responsible Cyprus official that the information in the application is true and correct to the best of the official's information and belief was included in the transmittal which accompanied the permit application submittal. The required statement was included with the transmittal letter and is in the application before the table of contents.

### Findings:

This section of the application is complete and accurate. If felt appropriate, Cyprus should modify the statement in Section 2.1.7 where the application says the permit application provides information for all anticipated mining and reclamation operations over the life of the mine.

Before the Division issues a permit, Cyprus will need to submit a certificate of insurance or other evidence of insurance satisfying the requirements of R645-301-800.

When Cyprus has advertised for the permit submission, they will need to submit proof of publication. It is strongly recommended that Cyprus submit a copy of the proposed advertisement to the Division before actually advertising.

### RECOMMENDATIONS

When Cyprus submits complete right of entry and land ownership information, the Division can determine this part of the Willow Creek Mine application administratively complete. With this information, some minor corrections, an insurance certificate or other evidence of meeting insurance requirements, and the proof of publication, this portion of the application will be complete and accurate.

5-31-95

Public Hearing Willow Creek mine and  
Castle Gate mine <sup>and</sup> Carbon Co. UT

PRO 007/038

|                 |                |             |               |
|-----------------|----------------|-------------|---------------|
| Orlando Ochoa   | U.M.W.A        | LU. 8622    | 472-3206      |
| Scott Grundy    | U.M.W.A.       | LU. 1681    | 472-3043      |
| Jeremy Anderson | U.M.W.A        | LU. 1681    |               |
| John Borla      | Cyprus Plateau |             | 637-2875      |
| Ben Grimes      | Cyprus Plateau |             | 637-2875      |
| Kathleen Vitor  | U.M.W.A        | District 22 | See Treasurer |
| Ben Morris      | UDWA           |             | 637 3310      |
| Jim Worley      | UMWA           | LU 1681     |               |