

# TECHNICAL MEMORANDUM

## Utah Coal Regulatory Program

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June 21, 2005

TO: Internal File

THRU: D. Wayne Hedberg, Permit Supervisor

THRU: Joe Helfrich and Steve Fluke, Team Leads

FROM: Priscilla Burton, Environmental Scientist III

RE: Addition of State Leases ML-47711 and ML-49287, West Ridge Resources, Inc., West Ridge Mine, C/007/0041, Task ID #2187

### **SUMMARY:**

The permit area is shown on Map 1-0, Permit Area. SITLA Leases ML-47711 and ML-49287 add 1,682.34 acres to the existing permit area bringing the total to 6,114.89 acres (Table 1-4 and Map 1-0). The SITLA lease additions are considered a significant revision to the MRP, but will not create any additional surface disturbance. This memo documents compliance with administrative details of the application.

Panel #7 within the Penta Creek fee lease (Map 5-4B) is limited to development mining only, while the Grassy Trail Reservoir dam subsidence and seismicity study is conducted. Although mining beneath or adjacent to an impoundment is prohibited by R645-301-525.210, the Division may allow mining under Grassy Trail Reservoir if the Permittee presents evidence that subsidence will not cause material damage to the impoundment (R645-301-525.213). The Division may also choose to limit the coal recovery beneath the impoundment (R645-301-525.214). The Penta Creek fee lease could potentially add an additional 257 acres to the permit area, pending the results of the seismic study (Table I-2B).

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TECHNICAL MEMO

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**TECHNICAL ANALYSIS:**

## **GENERAL CONTENTS**

### **IDENTIFICATION OF INTERESTS**

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

**Analysis:**

The Permittee and Operator are West Ridge Resources, Inc., a Delaware corporation. (MRP, Section 112.200 *et seq*). The Permittee's address, telephone number, employer identification number and MSHA I.D. number are listed. The Resident Agent is Gary Gray (Section 112.220). The Permittee will pay the abandoned mine reclamation fee.

West Ridge Resources, Inc. is jointly owned by the Intermountain Power Agency (IPA) and by Andalex Resources, Inc. Names, addresses, and employer identification numbers of persons that own or control the applicant are in Section 112.300 (last revised in 2002). Appendix 1-7 contains the original ownership and control information dated 1998.

The states on p. 1-6 that Andalex Resources Inc. is 100% owned and controlled by Prospect Holdings S.A. However, correspondence on file with the Division dated August 26, 2002 and December 18, 2003 documents that Andalex Resources Inc., is owned by Andalex Hungary, Ltd.; Andalex Hungary, Ltd. is owned by Andalex Investments BV; Andalex Investments BV is owned by Misland (Cyprus) Investments Limited and A&A investments Ltd.; and A&A Investments Ltd is owned by the Mitchell Green Family Trust. The current ownership and control information for Andalex must be updated in the West Ridge MRP. Changes to the principal shareholders listed under R645-301-112.300 are necessary and must include the following for each parent company:

- Ownership or control relationship to the applicant
- Percentage ownership
- Location in the organizational structure
- Addresses of the corporations within organizational structure
- Principal shareholders of all the above corporations.

Legal and financial information provided in the application must include any coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. Correspondence in the Division files dated December 18, 2003

confirms that Andalex Resources Inc. Tower Division also operates the Centennial Mine (007019). However only Genwal has been noted in the MRP Section 112.340 (p 1-7).

Appendix 1-5 lists affiliated coal mining and reclamation operations and their permit and MSHA numbers, together with dates of issuance.

Section 112.500 lists surface and subsurface owners in the permit area. Table 1-3 itemizes the lease holdings by surface ownership. Map 5-2 illustrates the surface land ownership and Map 5-3 illustrates subsurface ownership. Surface lands within the permit area are owned by the USA (administered by the BLM), Penta Creek/Magnificent Seven, School Institutional and Trust Lands Administration (SITLA), Dave Hinkins, Glen L. Wells, and Matt Rauhala.

Contiguous surface and subsurface property owners are cited in Section 112.600. Grassy Trail Reservoir is adjacent to the current permit area boundary (within 750 horizontal feet, and inside the Penta Creek lease, see Map 5-3 and 5-4B). The surface and subsurface of the reservoir is owned by Sunnyside City and East Carbon City (see Appendix 1-15).

### **Findings:**

The information provided does not meet the minimum requirements for Coal Processing Plants Not Located Within the Permit Area of a Mine. Prior to approval, the Permittee must provide the following, in accordance with:

**R645-302-263 and R645-301-112.300**, Changes to the principal shareholders of Andalex Resources, Inc. listed under R645-301-112.300 is necessary as detailed in correspondence on file with the Division (dated August 26, 2002 and December 18, 2003, attached). The following information must be provided for Andalex Resources, Inc.'s multiple parent companies:

- Ownership or control relationship to the applicant
- Percentage ownership
- Location in the organizational structure
- Addresses of the corporations within organizational structure
- Principal shareholders of all the above corporations.
- Ownership and control information must include officers and directors

**R645-302-263 and R645-301-112.400**, Legal and financial information provided in the application must include any coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. i.e Although Genwal Resources was noted on p. 1-7, the percentage ownership by Andalex in this mine operations was not noted and the ownership information for Centennial Mine must be mentioned as well.

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TECHNICAL MEMO

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## VIOLATION INFORMATION

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

### Analysis:

Appendix 1-2 contains violation history for Utah permitted mine sites that is current for the year 2005. Violations listed for the affiliated mine sites across the country has not been updated since the original permit application was issued in 1999.

### Findings:

The information provided does not meet the minimum requirements for Violation Information. Prior to approval, the Permittee must provide the following, in accordance with:

**R645-302-263 and R645-301-113.300**, Although Appendix 1-2 includes a listing of all violations received within the last three years prior to the date of this application by Utah mines under the control of Andalex Resources, Inc. Tower Division, the plan must also include any unabated violations or cessation orders written to **affiliated companies** in the United States or alternatively, the Permittee may state in the application that there have been no unabated violations or cessation orders to **affiliated companies** during the three years preceding the date of the current application (March 2004).

## RIGHT OF ENTRY

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

### Analysis:

The permit area is shown on Map 1-0 and sub-surface ownership is found on Map 5-3. [The location of the permit area can also be found on the Mount Bartles and Sunnyside 7.5 min. U.S.G.S quadrangle maps.]

Table 1-4 lists the legal description of the land included in each lease. Appendices 1-4, 1-9, 1-10 through 1-14 and 1-16 provide lease agreements. Federal lease SL-068754 was the original document providing right of entry. Development mining only of Penta Creek fee coal (124.92 acres) was added to the permit area in April 2005. State (SITLA) coal leases ML 47711 (801.24) and ML 49287 (881.10 acres) were added in June 2005.

The proposed topsoil borrow site is on land administered by SITLA, and Appendix 1-10 of the application includes a copy of the special use lease agreement with SITLA.

### **Findings**

The information provided meets the Right of Entry requirements of the Rules.

## **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 public notice required by R645-300-121.150 is found in Appendix 1-1.

Carbon County granted permission to conduct mining and reclamation operations within 100 feet of the proposed C Canyon road (see Appendix 1-8). The letter from the County includes certain stipulations:

1. Andalex (West Ridge Resources) should avoid any negative impacts to the road and should place a sign on the road indicating that a controlled access area lies beyond.
2. Ingress and egress from the county road to the mine facilities should be designed and constructed to provide maximum safety to public users of the road.
3. All mining operations adjacent to the road should be conducted in a manner that assures safety to the public.
4. Andalex (West Ridge Resources) will be responsible for maintenance of the portion of the road within the disturbed area.
5. Carbon County requires that Andalex (West Ridge Resources) leave the road in place and intact upon final reclamation and terminate the road at a parking/turnaround area for public use.

There are no structures within 300 horizontal feet of surface disturbance connected with the West Ridge mine.

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**TECHNICAL MEMO**

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Grassy Trail Reservoir is an area being studied for suitability for mining as required by stipulation 17 of Federal Lease UTU-78562 (Section 114.100) and by R645-301-525.213. Grassy Trail Reservoir is immediately adjacent to the permit area and lies within the Penta Creek fee coal lease. Large bodies of water are protected from mining by R645-301-525.210. Consequently, the Division and the BLM will review seismic analysis, monitoring, and mitigation/contingency plans currently being prepared by the Permittee.

MRP, Section 112.800 states that there are no pending interests or bids on lands contiguous to the permit area.

**Findings:**

Information provided in the application meets the requirements of the Regulations.

**PERMIT TERM**

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

**Analysis:**

The permit was re-issued on April 15, 2005 for a period of five years (expiration date is April 15 2010). There are four conditions on the permit:

1. the annual experimental practice monitoring and the Experimental Practice test plot evaluation.
2. providing water monitoring information through the database.
3. conducting Mexican spotted owl survey
4. complying with the Division Order 00A.

The Permittee must follow through with the Experimental Practice test plot evaluations this field season (2005). The Permittee has been uploading water monitoring data to the database. The Permittee and Division have been working towards a resolution of Division Order 00A.

**Findings:**

The information provided meets the requirements of the Rules.

**PUBLIC NOTICE AND COMMENT**

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

**Analysis:**

Notice of the State Lease additions was advertised in the Sun Advocate May 5, 12, 19 and 26, 2005. The public notice indicated that the lease additions are located on the Sunnyside USGS 7.5 min topographic map in T13 S R 13 E, Sec 36 SW1/4 and T14 S , R 13 E Sec 2 lots 1 thru 4, S1/2N1/2, S1/2; Sec 3 lots 1 thru 3, S1/2N1/2, S1/2; and Sec 10 W1/2NW1/4, SW1/4, SW1/4SW1/4SW1/4SE1/4. The 20-day comment period will end on June 26, 2005.

A cabin in T. 14 S., R. 13 E., Sec. 1, NE1/4NW1/4, on surface owned by Matt Rauhala, situated above panel 29, on the border of SITLA Lease ML4771 and Federal Lease UTU 78562 is scheduled to be undermined in 2014 (see Map 5-4B Mining Projections and Map 5-2 Surface Ownership). Six months prior to undermining, notification of the landowner must be made in accordance with R645-301-525.550.

**Findings:**

The information provided meets the public notice requirements of the Rules.

**FILING FEE**

Regulatory Reference: 30 CFR 777.17; R645-301-118.

**Analysis:**

A copy of the \$5.00 check for the filing fee is in the application (Appendix 1-1, Attachment 1-4), and the application also contains a statement with the notarized signature of Samuel Quigley that the information in the application is true and correct to the best of his information and belief (Appendix 1-1, Attachment 1-5).

**Findings:**

The information provided meets the requirements of the Regulations.

**ENVIRONMENTAL RESOURCE INFORMATION**

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

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TECHNICAL MEMO

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## PERMIT AREA

Regulatory Requirements: 30 CFR 783.12; R645-301-521.

### Analysis:

The permit area covers 6,114.89 acres (Table 1-4 and Map 1-0). The permit area and adjacent lands are shown on Maps 1-0, 5-2, 5-3, and others. Previous disturbance is shown on Map 5-1. Section R645-301-114 contains a legal description of the proposed permit area together with right of entry information.

### Findings:

Information provided is considered adequate to meet the requirements of this section of the regulations.

## RECLAMATION PLAN

### BONDING AND INSURANCE REQUIREMENTS

Regulatory Reference: 30 CFR Sec. 800; R645-301-800, et seq.

### Analysis:

#### Form of Bond (Reclamation Agreement)

The Reclamation Agreement was signed on April 2, 1999, by Sam Quigley for the Permittee. A surety bond was posted on March 19, 1999 by National Union Fire Insurance Company of Pittsburgh PA., covering the permit area as specified in the Reclamation Agreement.

#### Determination of Bond Amount

Information provided in the plan is adequate to allow the Division to calculate the required bond amount. In February 1999, the Division estimated the cost for the Division to reclaim the West Ridge Mine to be \$2,117,000 in 2004 dollars. The Division used the general reclamation plan in the PAP (Section R645-301-540 to R645-301-560) Appendix 5-1 Reclamation Bond Calculations and Appendix 5-5 West Ridge Mine Construction and

Reclamation Plan, Means Heavy Construction Cost Data 13th Edit, Blue Book Rental Rates, and the Caterpillar Performance Handbook 29th Edition to calculate the reclamation cost estimate.

In April 2005 (as part of task 2172), the Division reduced the reclamation cost estimate. The Division determined that the reclamation cost would be \$1,753,000 in 2006 dollars. Currently, a Surety Bond is filed with the Division in the amount of \$2,117,000 payable to the State of Utah, Division of Oil, Gas and Mining and the Office of Surface Mining Reclamation and Enforcement (OSM).

### **Terms and Conditions for Liability Insurance**

A certificate of insurance showing appropriate coverage has been provided in Appendix 1-1.

### **Findings:**

The Division must take the initiative to update the Reclamation Agreement to reflect the permit acreage of 6,114.89 acres (Table 1-4 and Map 1-0).

### **RECOMMENDATIONS:**

The MRP indicates that the Grassy Trail Reservoir seismicity study is required by the BLM (stipulation 17 of Federal Lease UTU-78562, MRP Section 114.100). However, the Division's responsibility for review of the subsidence and seismicity information is clearly indicated by the R645 Rules. Bodies of water such as Grassy Trail Reservoir are protected from mining by R645-301-525.210 which states that unless excepted by R645-301-525.213, "Underground coal mining and reclamation activities will not be conducted beneath or adjacent to impoundments with a storage capacity of 20 acre feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of, such features or facilities;" The Division must conduct an independent review of the evidence presented in support of undermining Grassy Trail Reservoir.