

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

April 24, 2006

TO: Internal File

THRU: Karl R. Houskeeper, Environmental Scientist/Team Lead

FROM: Priscilla W. Burton, CPSSc, Environmental Scientist/Soils

RE: Midterm Review; Genwal Resources, Inc., Crandall Canyon Mine, C/015/0032, Task ID #2431

SUMMARY:

Approval is not recommended.

The mid-term review was initiated on February 9, 2006. This memo addresses the administrative and soils contents of the MRP.

TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

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

Analysis:

Genwal Resources, Inc. is the Permittee and Operator (MRP, Section 1.12.2). The Permittee's address, telephone number, employer identification number and MSHA I.D. number are listed. The Resident Agent is Gary Gray (Section 1.12.2). The Permittee will pay the abandoned mine reclamation fee.

Genwal 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 1.12.3 (last revised in Feb 2005). Appendix 1-9 contains the original ownership and control information, incorporated 1998.

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The MRP incorrectly states on page 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 Crandall Canyon Mine 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.

Appendix 1-12 lists affiliated coal mining and reclamation operations and their permit and MSHA numbers, together with dates of issuance. This appendix lists DOGM permits for the Centennial Mine, the Wildcat Loadout, Crandall Canyon Mine, and two mines no longer affiliated: the Horse Canyon Mine, and Wellington Loadout. This list was last updated in 1999 and must be revised to remove the latter two sites or include end dates for ownership of those sites.

Surface ownership is illustrated on Plate 4-4 and described in Section 1.12.6. The surface lands within the permit area are owned by the United States (administered by the U.S. Forest Service), the State of Utah, and Genwal Resources, Inc. The subsurface is owned by the same three entities. The federal coal is administered by the BLM and the state coal is administered by the School and Institutional Trust Lands Administration (SITLA, see Plate 1-1).

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:

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R645-301-112.300, Changes to the principal shareholders of Andalex Resources, Inc. listed in MRP Section 1.12.3 must be updated. 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, and ownership and control information must include officers and directors.

R645-301-112.400, Appendix 1-12 lists DOGM permits for the Horse Canyon Mine, and Wellington Loadout, sites not currently affiliated with either IPA or Andalex Resources, Inc. Appendix 1-12 must be updated.

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 1-11 contains a violation history for Utah permitted mine sites that is current through May 2005. Information on file with the Division indicates that a September 2005 NOV #05-49-2-1 should be added to Appendix 1-11.

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:

R645-301-113.300, Information on file with the Division indicates that a September 2005 NOV #05-49-2-1 should be added to Appendix 1-11.

RIGHT OF ENTRY

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

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Analysis:

Section 1.14 of the MRP lists the following state and federal leases within the permit area: ML-21568, ML-21569, U-54762, UTU-78953, UTU-77975, UTU-68082, SL-062648, and SL-050655. Plate 1-1 illustrates the locations of these parcels. It shows one parcel of fee coal referred to as the Genwal or Dellenbach parcel (Section 1.12). The legal descriptions of the lease areas are found in Section 1.14 and Appendices 1-1, 1-13, 1-14, and 1-15.

Lease SL-050655 was relinquished on March 1, 1984. In exchange for this relinquishment, lease SL-062648 was adjusted to include Lot 4 Sec 5, and Lot 1 Sec 6 of T 16 S, R 7 E in 1984 (Appendix 1-1). Please correct the legal description provided on page 1-12 in Section 1.14 or the MRP. Interestingly, Lot 4 Sec 5 was not conveyed by Genwal Resources Inc. in the 1991 Assignment of Federal Coal Lease SL-062648 to Nevada Electric Investment Company (NEICO). But, the acreage of SL-062648 increased from 155.23 to 161.17 acres in the exchange. An explanation is requested.

The plan indicates on page 1-10 that the re-assignment of federal and state leases in 1991 to NEICO were contingent upon BLM approval. Not only are these statements outdated, but also since these statements were written, Andalex Resources Inc. bought out NEICO's ownership. Therefore, the outdated statements on page 1-10 must be edited.

Right of entry for the sediment ponds and topsoil piles are based upon Special Use permits from the U.S.F.S. provided in Appendices 1-3. The sediment pond special use permit FSM 2714 expired in 1992, please provide the current update in Appendix 1-3.

Findings:

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

- R645-301-114, •**Right of Entry, MRP Section 1.12 must indicate that SL-050655 was relinquished on March 1, 1984. **•**In exchange for the relinquishment of lease SL-050655, lease SL-062648 was adjusted to include Lot 4 Sec 5, and Lot 1 Sec 6 of T 16 S, R 7 E in 1984 (Appendix 1-1). Please correct the legal description provided on page 1-12 in Section 1.14 or the MRP to include Lot 4 Sec 5 of T 16 S, R 7 E. **•**Please provide clarification of the following: The 1981 BLM modified lease document SL-062648 was adjusted to include Lot 4 Sec 5, but Lot 4 was not conveyed by Genwal Resources Inc. in the 1991 Assignment of Federal Coal Lease SL-062648 to Nevada Electric Investment Company (NEICO). The acreage of SL-062648 increased from 155.23 to 161.17 in the reassignment of the lease. **•**The plan indicates on page 1-10 that the re-assignment of federal and state

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leases in 1991 to NEICO was contingent upon BLM approval. Not only are these statements outdated, but also since these statements were written, Andalex Resources Inc. bought out NEICO's ownership. Therefore, the outdated statements on page 1-10 must be edited. •The sediment pond special use permit FSM 2714 and the snow storage special use permit and the topsoil stockpile special use permits expired in 1992, please provide the current updates in Appendix 1-3. •Topsoil stockpile special use permit FSM 2710 expired in 1987, please provide the current update in Appendix 1-3.

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 information provided in Section 1.15 and Appendix 1-6 and Appendix 1-7 meet the requirements for establishing that coal mining will not take place where lands have been designated unsuitable for the activity.

A special use permit dated September 26, 1989 from the U.S.F.S. allowed the improvement and use of Forest Development Road #50248 for mining activity (Appendix 1-2). This permit expired on September 31, 2004 and may have been renewed annually subsequent to that date, but no further information is available in Appendix 1-2.

Findings:

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

R645-301-115, U.S. F.S. Special Use permit 7731.44 expired on September 31, 2004 and according to the terms of the permit may have been renewed annually subsequent to that date. Please provide a current update to U.S.F.S. Special Use Permit 7731.44 in Appendix 1-2.

PERMIT TERM

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

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Analysis:

The permit was issued March 28, 2005 and will expire on March 28, 2010. There is one special condition placed on the permit to submit water quality data using the Division's established electronic format.

Findings:

The information available meets the requirements of the Regulations.

PUBLIC NOTICE AND COMMENT

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

Analysis:

An outdated certificate of insurance (dated July 13, 2004) is located in Appendix 1-10. A current insurance policy is in force (DOGM complete inspection March 8, 2006).

Appendix 1-8 provides an affidavit of publication for recent permitting actions.

Findings:

The information presented 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.

PERMIT AREA

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

Analysis:

The permit area is described in Section 1.12 as 6,287.74 acres (Section 1.12). The permit area and adjacent lands are shown on Plate 1-1.

Findings:

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

OPERATION PLAN

TOPSOIL AND SUBSOIL

Regulatory Reference: 30 CFR Sec. 817.22; R645-301-230.

Analysis:

Topsoil Removal and Storage

The disturbed area covers 15.264 acres, Section 1.12, Genwal Disturbed Acreage Table. Surface facilities are shown on Plate 5-3.

Several statements in Chapter 2 of the plan require follow-up by the Permittee. They are listed by page number in the deficiency written below.

Findings:

The information provided in Chapter 2 suggests that the Permittee will provide further information to the Division. Prior to approval, the Permittee must provide the following, in accordance with:

- R645-301-121.200**, Please provide current information as follows: •Page 2-6a, 1st paragraph. The last sentence in this paragraph indicates that the quantity of fill used to construct the access ramp/fan pad would be verified with as-built plans. Was this as-built provided? If so, please cite the location of the information. •Page 2-6b, 1st paragraph. The last sentence of this paragraph states that Appendix 2-5 Part III would be forthcoming. •Page 2-6c. The option of tunneling from the mine yard to the coal seam to create the portal intake and fan portals is described. Tunneling would generate approximately 1,900 cu yds of material during construction. Was this option selected? If so, provide a statement of the volume of additional material added to the pad and provide the required acid/toxic analysis of the tunnel material (as noted in last paragraph). •Page 2-8, 2nd paragraph. Provide as-built configurations of Plates 2-5, 2-5A, and 2-5B.

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- Page 2-14, last paragraph. Provide a statement of the impact of salting the road after two decades of monitoring; include observations of the vegetation, the amount of salt applied and the chemical formula of the salt.

RECOMMENDATIONS:

Approval is not recommended. Ask for the administrative and soils information in the MRP to be updated.