

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

OK

October 18, 2006

TO: Internal File

THRU: Karl R. Houskeeper, Environmental Scientist/Engineering, Team Lead. *KRH by CR*

FROM: Priscilla W. Burton, CPSSc, Environmental Scientist/Soils *PWB by CR*

RE: Midterm Review; Crandall Canyon Mine, C/015/0032, Genwal Coal Company, Task ID #2587

SUMMARY:

The mid-term review was initiated on February 9, 2006 as task #2431. Supplemental information received on August 1, 2006 is the subject of this task. Although the Permittee responded adequately to all but two of the deficiencies previously identified in Task 2431, the acquisition of Andalex by Murray Energy Corp makes the response outdated. This memo addresses the administrative and soils contents of the MRP. Further information on ownership and as-builts for topsoil pile #4 are requested.

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, Sec. 112.300). The Permittee's address, telephone number, employer identification number and MSHA I.D. number are listed. The Resident Agent is Gary Gray (Sec.112.220). The Permittee will pay the abandoned mine reclamation fee.

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Ownership of Genwal Resources, Inc. was provided as requested during review of task 2431. Names, addresses, and employer identification numbers of persons that own or control the applicant are in Sec. 112.300 thru.112.330. [Appendix 1-9 containing the 1988 ownership and control information was deleted.]

However, the acquisition of Andalex by Murray Energy Corp. makes the information outdated. The Crandall Canyon project is now jointly owned by the Intermountain Power Agency (IPA) and by Murray Energy Corp.

Changes to the principal shareholders listed under R645-301-112.300 are necessary and must include the following for Murray Energy Corp.:

- 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.

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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 West Ridge Mine. Utah affiliates such as the Horse Canyon Mine should now be included in Appendix 1-12.

Land ownership is illustrated on Plate 4-4 and described in Section 112.500 and 112.600. 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:

R645-301-112.300, The acquisition of Andalex by Murray Energy Corp. makes the information outdated. The Crandall Canyon project is now jointly owned by the Intermountain Power Agency (IPA) and by Murray Energy Corp. •Corrections are necessary in several places in Chap. 1 where reference is made to “joint owners (Andalex and IPA)” or “IPA and Andalex,” (i.e. pp. 1-12 and 1-13). •Changes to the principal shareholders listed under R645-301-112.300 are necessary and must include the following for Murray Energy Corp. (1) Ownership or control relationship to the applicant, (2) Percentage ownership, (3) Location in the organizational structure, (4) Addresses of the corporations within organizational structure, (5) Principal shareholders of all the above corporations, and (6) Ownership and control information must include officers and directors.

R645-301-112.400, No sooner had the Permittee updated the requested information than the acquisition of Andalex by Murray Energy Corp. made it outdated. Utah affiliates such as the Horse Canyon Mine should now be included in Appendix 1-12.

VIOLATION INFORMATION

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Analysis:

Appendix 1-11 contains a violation history for Utah permitted mine sites that is current through May 2006.

With the acquisition of Andalex by Murray Energy Corp, the violations listed for the affiliated mine sites across the country Section 113.400 may need to be updated.

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, With the acquisition of Andalex by Murray Energy Corp, the violations listed for the affiliated mine sites across the country Section 113.400 may need to be updated.

RIGHT OF ENTRY

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

Analysis:

Sec. 114 of the MRP lists the following state and federal leases within the permit area: ML-21568, ML-21569, U-54762; UTU-78953; UTU-68082; and SL-062648. The Permit Legal Description provided in Sec. 114 also includes a 50-acre BLM right of way UTU-77975. Plate 1-1 illustrates the locations of these leases. The legal descriptions of the lease areas are found in Sec 114 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 (App. 1-1). Please correct the legal description provided on page 1-12 in Sec. 114 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.

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. All Special Use permits were renewed in 2003 and do not expire until 2022.

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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, • In exchange for the relinquishment of lease SL-050655 (March 1, 1984), 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 (App. 1-1). Please correct the legal description of federal lease SL-062648 provided on page 1-16 in Sec. 114 of the application 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.

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 Sec. 115 and App. 1-6 and App. 1-7 meet the requirements for establishing that coal mining will not take place where lands have been designated unsuitable for the activity.

U.S. Forest Service Special Use permit 7731.44, dated September 26, 1989, allowed the improvement and use of Forest Development Road #50248 for mining activity (App. 1-2). This permit was subsequently renewed until October 2007 (letter dated Feb 24, 2003 in App. 1-2).

Findings:

The information provided meets the minimum requirements for Right of Entry.

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 App. 1-10. A current insurance policy is in force (DOGM complete inspection March 8, 2006).

App. 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 Sec 1.12 as 6,287.74 acres (Sec. 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 (Sec. 112, Genwal Disturbed Acreage Table). Surface facilities are shown on Plate 5-3. Section 2.42 describes 12,912 yd³ of stockpiled topsoil in four locations and a redistribution depth of 12 – 16 inches over the site.

The Permittee has indicated with this amendment that tunnels from the mine yard were driven up to the coal seam to provide the South portal intake and fan portals. This construction was completed in 2003. Excavated material was sampled for acid/toxic forming characteristics (App. 2-11).

Ambiguous statements in the MRP have been cleared up by this amendment.

Findings:

The information provided does not meet the minimum requirements for Operation Plan Soil and Subsoil. Prior to approval, the Permittee must provide the following, in accordance with:

R645-301-121.200, A commitment in the existing MRP on Page 2-8, 2nd paragraph requires that the Permittee provide as-built configurations of proposed topsoil pile #4 (Plates 2-5, 2-5A, and 2-5B), after construction of the south portal. These revised plates are overdue.

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RECOMMENDATIONS:

Although the Permittee responded adequately to all but two of the deficiencies previously identified in Task 2431, the acquisition of Andalex by Murray Energy Corp makes the response outdated.

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