
UTAH OGM COAL PROGRAM

Date sent to file: December 11, 2006

To: Internal File, Process for Informal & Formal Section 7 consultation with USFWS & OSM

From: Coal Regulatory Program

Purpose: To Provide Check-Off List for Process Requirements for Informal and Formal Section 7 Consultations for Mining Plan Modification Decision Document Packages. (For information on how these processes were developed by OSM, USFWS, and DOGM see meeting notes October 3, 2006.)

INFORMAL DETERMINATIONS:

“No effect”:

- ❑ DOGM will initiate and document informal, phone consultations with USFWS (include date, time, agency representatives, and discussion summary)
- ❑ DOGM will send to OSM the following items with the State Decision Package:
 - Phone notes of conversations between the USFWS and DOGM (include date, time, agency representatives)
 - Internal decision memos that provide the Division’s finding (determination) for TES species

“May affect, is not likely to adversely affect”:

- ❑ DOGM will initiate and document informal, phone consultations with USFWS (include date, time, agency representatives, and discussion summary)
- ❑ DOGM will send the DOGM’s findings (determination) for TES species to USFWS
- ❑ USFWS will respond with official letters to DOGM
- ❑ DOGM will send to OSM the following items with the State Decision Package:
 - Phone notes of conversations between the USFWS and DOGM
 - DOGM’s findings (determinations) for TES species that are sent to USFWS
 - USFWS responses

FORMAL DETERMINATIONS:

“May affect, is likely to adversely affect”:

- ❑ DOGM will initiate and document informal, phone consultations with USFWS (include date, time, agency representatives, and discussion summary)
- ❑ DOGM will send to OSM the following items:
 - Phone notes of conversations between the USFWS and DOGM
 - Internal memos that provide the Division’s finding (determination) for TES species

- OSM will review DOGM's documents and initiate Formal Section 7 Consultations between OSM and USFWS
- USFWS will respond with official letters to OSM and cc DOGM.

“Jeopardy”:

At this time, there is no internal formal process, but it would most likely follow the same initial process as for “May affect, is likely to adversely affect”. It is speculated that mining projects will probably never result in this determination. 1996 Biological Opinion or USFWS mitigation programs are intended to avoid such determination.

Please note that “memos” and “letters” are not interchangeable in our process. “Memo” refers to informal correspondence. “Letter” refers to formal correspondence.