File 007/005 #2
cc: J. Smith
Western

0053

United States Department of Agriculture
Forest Service
Manti-La Sal National Forest
599 West Price River Drive
Price, Utah 84501

Reply to: 2820/1950

Date: June 15,1993

Daron Haddock
Utah Division of Oil, Gas and Mining
3 Triad Center, Suite 350
355 West North Temple
Salt Lake City, Utah 84180-1203

Dear Daron:

The Proposed Finding of No Significant Impact (PFONSI) and Environmental Assessment (EA) for the Burnout Creek Subsidence and Upper Huntington Canyon Enhancement project has completed its 30 day review and comment prior. During that time period, a total of four comments letters were received. Response to these comments can be found in the Decision Notice (DN) and Finding of No Significant Impact (FONSI), Chapter III, Subsection C, Public Comment on the Environmental Assessment and Proposed Finding Of No Significant Impact (copy attached).

I believe the predecisional review of the EA and PFONSI assisted in clarifying my decision. I feel this has been accomplished in a way which responds to the comments and remains within my basic charge in managing Federal lands within the Manti-La Sal National Forest.

Due to the length of the EA, (over 150 pages) it is not included with this letter. I would be more than willing to provide a copy if you would call (801) 637-2817 or visit this office at the above address.

Thank you for your input to scoping of this proposal and/or the comments you provided during the predecisional review. If you have questions concerning the EA, DN, and/or FONSI, please contact Charles J. Jankiewicz, Price District Ranger or Walter E. Nowak, Price District Geologist, at the above phone number or address.

Sincerely

George A. Morris

GEORGE A. MORRIS
Forest Supervisor

encl.

RECEIVED
JUN 1 0 1993
DIVISION OF
OIL GAS & MINING

DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACT

BURNOUT CREEK SUBSIDENCE
AND
UPPER HUNTINGTON CANYON ENHANCEMENT

PRICE RANGER DISTRICT
MANTI-LA SAL NATIONAL FOREST

I. INTRODUCTION

An Environmental Assessment (EA) for subsiding Burnout Creek and Upper Huntington Canyon enhancement was completed and is on file at the Forest Supervisor's office at 599 West Price River Drive, Price, Utah, 84501. The EA documents the analysis that was completed pursuant to Stipulation 12 of Federal Coal Lease U-044076 (Special Coal Lease Stipulation #9 of Appendix B of the Manti-La Sal National Forest Land and Resource Management Plan - Forest Plan) and includes a hydrologic study (long-term monitoring), mitigation (off-site enhancement), and a contingency plan (on-site mitigation). It analyzed different alternatives to determine how, when, and where these activities could be implemented on a site-specific basis over the next several years.

Background

In a letter dated June 15, 1992, Utah Fuel Company, operator of the Skyline Mine, reaffirmed the need to longwall mine the coal beneath Burnout Creek. They requested Forest Service approval to subside perennial reaches of Burnout Creek in accordance with Special Stipulation No. 12 of their lease.

This is the first time a mining operator has requested a decision to approve a proposal to subside perennial waters in accordance with Special Stipulation No. 12 of their lease. This stipulation requires specific approval prior to conducting mining operations that would subside perennial waters that could potentially damage or alter the flow.

I believe this will be a decision point which we will face again and again as our knowledge of perennial drainages increases and coal extraction moves into new areas on the Manti-La Sal National Forest. For this reason, I feel it is important that we understand how I have arrived at this specific decision point over Burnout Creek.

The initial Mining and Reclamation Plan (MRP) for Utah Fuel's Skyline Mine was approved in 1979. This approval was based on an EA prepared by the Forest Service and an EIS for the Federal Coal Management Program prepared by the Department of Interior in 1979. Since the 1979 approval, Utah Fuel has been operating under a scenario which included longwall mining under Burnout Creek. The company planned their mine sequencing, personnel,

equipment, and cost amortization based on those reserves. At that time, the Burnout drainage was not considered to be perennial.

The Manti-La Sal National Forest Land and Resource Management Plan and Final Environmental Impact Statement (Forest Plan and FEIS) completed in 1986, require specific measures for the protection of perennial drainages. Since approval of the Forest Plan, these stipulations have been incorporated into coal leases at the time of their evaluation or readjustment where protection of perennial drainages was identified as a concern. Those specific measures have been made a part of Federal Coal Lease U-044076 and Utah Fuel's Mining and Reclamation Plan.

In 1990, a riparian survey was conducted in support of an Environmental Impact Statement that evaluated a proposal to reroute Questar Pipeline Company's Mainline No. 41. It determined that approximately the lower mile of Burnout Creek is perennial. It also recognized that Upper Huntington Creek, including Burnout Creek, is designated by the Utah Division of Wildlife Resources as the only Utah source of certified disease-free eggs for raising Yellowstone Cutthroat Trout for stocking purposes.

Given that terms of the Federal coal lease require approval of mining activities that could cause subsidence of perennial streams and given that reaches of Burnout Creek have been classified as perennial, a decision by me as the Responsible Official is necessary if longwall mining is to occur beneath Burnout Creek.

The difficulty of this decision and analysis is compounded by the following:

* *Number of years in which Utah Fuel Company has planned their mining sequence and economic viability on mining under Burnout Creek.*

* *Lack of information concerning subsidence effects on perennial drainages in the Western United States.*

* *No mining by longwall methods under Burnout Creek would cause the sterilization (inability to mine) of up to two million tons of recoverable coal reserves. This would result in a loss of $4 million in royalties to Federal, State, and local governments.*

In a letter dated April 30, 1992, the Bureau of Land Management provided comments concerning the approved Resource Recovery and Protection Plan (R2P2) for Utah Fuel Company's Skyline Mine and protection of the Burnout Creek drainage area. In it, they anticipated (prediction rather than empirical data) that longwall mining operations should not have any long-term effects on the flow of this perennial stream and that such mining operations should be allowed.

In addition, Utah Fuel Company has committed to supporting a hydrologic study, on-site mitigation, and off-site enhancement as part of its proposed action (See Proposed Action for specific information on these components).

Project Location

The proposed activity is located approximately 23 air miles west northwest of Price, Utah, or about 6 miles southwest of Scofield Reservoir on the Wasatch Plateau, in portions of Sections 26, 34, and 35, T.13 S., R.6 E., Salt Lake Meridian, Emery County, Utah (see Figures I-1 and I-2, Project Area Vicinity Maps, located in the Burnout EA).

Proposed Action

The proposed action for this analysis is to longwall mine two coal seams which underlie perennial reaches of the Burnout Creek drainage on Federal Coal Lease U-044076. The mining would be full extraction, thereby subsiding the drainage.

The proposed action also includes the following associated components:

Enhancement (Mitigation) - The value of the fishery habitat in Burnout Creek would be quantified. Then another undeveloped or underdeveloped, fishery habitat, within the Upper Huntington Canyon (UHC) drainage, of potentially equal value would be identified and improved. Utah Fuel Company has the responsibility to develop, fund, and implement this enhancement, after review and approval of enhancement activities by the Forest Service and any other responsible approving agencies.

Study - An intensive stream monitoring program would be conducted during the subsidence activity along Burnout Creek. This study would include thorough documentation of the areas subsided and the amount of subsidence which occurred. The effects of subsidence on flow, stream morphology and spawning habitat would be monitored and documented. Skyline Mine would work with the Forest Service Intermountain Research Station to develop, fund, and implement this study.

Mitigation (Contingency Plan) - Mitigate or repair any notable damage which does occur from subsidence immediately. These mitigation measures would include a means to control sediment and reestablish stream flow that may be affected. Utah Fuel Company would fund and implement this mitigation, after review and approval of mitigation activities by the Forest Service (Manti-La Sal and Intermountain Research Station).

The upper 2 coal seams are currently planned to be longwall-mined starting this year and continuing for up to 10 years. The upper 2 seams average a combined total of 20 feet in thickness. At a maximum subsidence rate of 70%, the land surface could drop or subside up to 14 feet over a 10 year period.

If the proposed action is implemented, enhancement activities would begin within 18 months and be completed within 3 years. The proposed management activities would be administered by the Price Ranger District of the Manti-La Sal National Forest.

Purpose and Need

The proposed action is designed to respond to the overall guidance of the Forest Plan approved in 1986. The guidance is provided within the goals, objectives, standards and guidelines, and management area direction of the Forest Plan. The Forest Plan and accompanying FEIS, to which this document is tiered, are on file and available for review at the Price Ranger District Office, Manti-La Sal National Forest Supervisor's Office, and the Forest Service Intermountain Regional Office.

More specifically, the proposal has the following purposes:

* *To maximize resource (coal) recovery while maintaining or improving water quality, sediment threshold limits, instream flow standards, vegetation, fish and wildlife habitat.*

* *To gain a better understanding of the surface effects of mining-induced subsidence which can be used by the Forest Service (Manti-La Sal National Forest) and others in future planning and decision making regarding other perennial waters.*

II. DECISION

It is my decision to implement Alternative B as described in the EA for Burnout and Upper Huntington Canyon. Under this alternative, approval would be granted to Utah Fuel Company to longwall mine under and subside perennial reaches of Burnout Creek pursuant to Stipulation No. 12 of the lease (Special Stipulation 9 from Appendix B of the Forest Plan). Mining would begin this year and last for up to 10 years.

Components of this decision would include:

* *A hydrologic study of Burnout Creek would be conducted before and during subsidence activity. This study would document the areas subsided and the amount of subsidence which occurred. The effect of subsidence on flow, riparian areas, stream morphology, and spawning habitat would be monitored. The study proposal, as developed by Dr. Roy Sidle of the Forest Service's Intermountain Research Station, (Research Station) is included as Appendix A of the Burnout EA.*

* *Off-site mitigation (enhancement) elsewhere in the Upper Huntington Canyon drainage as described in the plan developed by Dr. Richard Valdez for Utah Fuel. Utah Fuel would be responsible to develop, fund, and implement this enhancement. This plan, as amended, is included in Appendix B of the Burnout EA.*

* *On-site mitigation of subsidence caused damage in Burnout. This is in the form of a contingency plan with the Research Station, Utah Fuel Company, and the Manti-La Sal as partners. A Memorandum of Understanding between the above partners that outlines the contingency plan is included in Appendix C of the Burnout EA.*

Furthermore, it is my decision that no other analyses to approve the undertaking of mining operations that could result in subsidence of perennial waters on the Manti-La Sal National Forest will be conducted until information from the hydrologic study can be documented and extrapolated. It is estimated that information from this study will not be available for 2 to 3 years. This portion of my decision is not inclusive of development mining of entrees (mains). Where subsidence of perennial waters is not in question, the proposal may move forward.

KEY POINTS

* *Approval would be granted in accordance with Special Stipulation No. 12 of Federal Coal Lease U-044076.*

* *Longwall mining would occur, subsiding reaches of Burnout drainage.*

* *Up to 2 million tons of coal would be recovered which otherwise would not be mined.*

* *The hydrologic study of subsidence effects in the Burnout drainage would be conducted.*

* *The enhancement proposed by Utah Fuel would be implemented.*

* *The Memorandum of Understanding (contingency plan), which provides on-site mitigation in Burnout Canyon using Best Management Practices in a timely and responsive fashion, would be implemented.*

* *Information from this hydrologic study will be used in considering any future request(s) for mining operations that could result in subsidence of perennial waters.*

III. REASONS FOR THE DECISION

A. Consistency with Forest Plan Standards, Goals, and Objectives

I have determined that Alternative B is consistent with Forest Plan management direction. It considers the relative benefit to the public and individual needs, and provides the opportunity for sustained economic growth dependent upon the Forest, while maintaining overall recreational opportunities, wildlife habitat, livestock grazing, timber production, and water quality.

The above determination considered the following factors:

(a) There are no known Endangered or Threatened plants or animals within the project area (see Biological Evaluations on file for the project in Appendix D of the Burnout EA).

(b) There will be no significant impacts to prime or unique rangelands, farmlands, or timberlands.

(c) *The project will be designed and implemented so that significant cultural resources will not be affected.*

(d) *Visual Quality Objectives will be maintained.*

B. Response to Issues

This is not an easy decision to make, as highlighted in the background information of this document. It is one in which I need to rely on theoretical data submitted by the BLM and Utah Fuel Company rather than empirical data on what will happen. It is also one in which I also need to rely on Utah Fuel Company's commitment to the enhancement, mitigation, and hydrologic study. It is driven in part by the need for empirical data to make future decisions. However, I can not overlook the negative economic effects of disapproving the proposal on this company, its employees, and the communities dependent upon resources from National Forest System lands.

My determination considered the following:

(a) *Utah Fuel Company's acceptance of responsibility to participate, fund, and implement the study, mitigation, and enhancement.*

(b) *The knowledge that will be gained on how subsidence affects flow, stream morphology, and spawning habitat.*

(c) *The length of time in which Utah Fuel Company has planned the mining sequence under Burnout Creek and the economic impact of not following this sequence.*

(d) *Loss of approximately $4,000,000 in royalties which would otherwise benefit Federal, State, and local governments.*

(e) *Shortened mine life resulting in an estimated 125 work-years of lost employment. This in an area where unemployment has consistently approached twice the Utah State average.*

(f) *Enhancement of Boulger Creek will offset any loss of trout habitat in Burnout Creek and could potentially result in increasing the amount of existing trout habitat in Upper Huntington Canyon resulting in an overall net benefit.*

(g) *A current stipulation within the approved mine plan requiring that any water lost will be replaced in-kind, meaning that the same quantity and quality of water will be returned to Burnout Creek.*

(h) *The short-term nature of any loss of water and resulting negative effect on fish production within Burnout Creek.*

C. Public Comment on Environmental Assessment and Proposed Finding Of No Significant Impact (PFONSI)

During the 30 day comment period on the EA and the PFONSI a total of four

comment letters were received. They were from Questar Pipeline Company, Energy West Mining Company, Interwest Mining Company, and Utah Fuel Company. Each was supportive of the decision to grant approval to Utah Fuel Company to longwall mine under and subside perennial reaches of Burnout Creek pursuant to Stipulation No. 12. Energy West and Interwest Mining Companies expressed concern over that portion of my PFONSI (II. PREFERRED ALTERNATIVE) which stated: "No other analyses to approve the undertaking of mining operations that could result in subsidence of perennial waters will be conducted until information from the hydrologic study can be documented and extrapolated. It is estimated that information from this study will not be available for 2 to 3 years".

There are several points that need to be clearly understood about this portion of my decision:

* *It is my intention for this forest to be proactive concerning all mining requests. However, I can not be proactive nor can I, in good conscence continue to make decisions which rely on theoretical assumptions unless verified by field data. The information generated from the hydrologic study is needed for future consideration of other similar proposals. The need for improved information for future decisions is basic to my approving this proposal.*

* *My decision is not intended to delay or prevent future actions concerning proposals related to development of entries (mains). I have added a sentence to that portion of my decision to clarify this point. It reads as follows: "This portion of my decision is not inclusive of development mining of entries (mains). Where subsidence of perennial waters is not in question, the mining may move forward".*

The comments generated have assisted in clarifying my decision. I feel this has been accomplished in a way which responds to the comments expressed and remains within my basic charge to manage the surface resources of Federal lands within the forest boundary.

IV. MITIGATION MEASURES AND MONITORING REQUIREMENTS

I consider all the mitigation measures and monitoring requirements listed in Appendix A, B, and C of the EA as essential to implementation. The monitoring planned for this project is an important part of our overall monitoring efforts at the Forest level.

V. ISSUES

Comments received from the public scoping process along with issues identified by the Forest Service were used by the interdisciplinary team of resource specialists to determine the following issues relative to the proposed action. These issues were used in the formation and comparison of the alternatives.

Issue : Mining Economics

Issue : Fish Habitat and Water Quality

Issue : Information on Subsidence

Issue Common To Action Alternatives

Issue: Geologic Hazards

Issues Resolved Through Existing Mitigations

Issue: Water Rights

Issue: Wildlife Resources

Issue: Transbasin Diversion of Water

Issue: Impacts to Mainline No. 41

All of the above issues identified during the public scoping for this proposal are addressed in the EA. The EA and project file are available for review at the Price Ranger District Office located in Price, Utah.

VI. ALTERNATIVES CONSIDERED

ALTERNATIVE A (NO ACTION)

KEY POINTS

* *Loss of: $4 million in royalties, up to 2 million tons of coal, and 125 work-years. Mine life would be shortened by about one half year.*

* *Existing conditions maintained: no subsidence, protection of perennial waters, no enhancement of Upper Huntington Canyon (Boulger Creek).*

* *Management practices remain unchanged without analysis of hydrology study data that may indicate that longwall mining and subsidence of perennial waters could be approved.*

ALTERNATIVE B (PROPOSED ACTION): LONGWALL MINE UNDER AND SUBSIDE PERENNIAL REACHES OF BURNOUT CREEK WITH THE HYDROLOGIC STUDY, ON-SITE MITIGATION, AND OFF-SITE ENHANCEMENT.

KEY POINTS

* *Longwall mining would occur, subsiding the Burnout drainage.*

* *Up to 2 million tons of coal would be recovered for which Utah Fuel would pay approximately $4 million in royalties benefitting Federal, State and local governments.*

* *A hydrologic study of subsidence effects in the Burnout drainage would be completed. The results of this study would help guide future decisions regarding subsiding perennial waters.*

* *The enhancement proposed by Utah Fuel would provide a net benefit to Upper Huntington Canyon hydrological and fishery values.*

* *The Memorandum of Understanding covering the contingency plan would provide on-site mitigation in Burnout Canyon using Best Management Practices in a timely and responsive fashion beyond the requirements of existing mitigation measures.*

ALTERNATIVE C ***LONGWALL MINE UNDER AND SUBSIDE PERENNIAL REACHES OF BURNOUT CREEK WITHOUT THE HYDROLOGIC STUDY, ON-SITE MITIGATION, OR OFF-SITE ENHANCEMENT.***

KEY POINTS

* *Longwall mining would occur, subsiding the Burnout drainage.*

* *Up to 2 million tons of coal would be recovered for which Utah Fuel would pay approximately $4 million in royalties benefitting Federal, State, and local governments.*

* *There would be no enhancement of fishery and riparian values in Upper Huntington Canyon.*

* *Management Practices would remain unchanged without analysis of hydrologic data from the study that could allow changes.*

VII. COMPLIANCE WITH THE NATIONAL FOREST MANAGEMENT ACT

A. Forest Plan Consistency

All resource plans are consistent with the Forest Plan [16 U.S.C. 1604 (i)]. The Forest Plan guides all resource management activities [36 CFR 219.1 (b)]. All administrative actions affecting the National Forest must be based on the Forest Plan [36 CFR 219.10 (e)].

The EA lists Forest Plan Management Areas, lists proposed activities along with the purpose and need for the proposal, which together with the Forest Plan Management Area Map demonstrates consistency with Forest Plan land allocation.

I find my Alternative B is consistent with the Forest Plan.

B. Finding of Compliance with Current Laws and Regulations

I have determined through the Interdisciplinary Team process that the project is responsive to applicable, current laws and regulations guiding the planning and management of National Forest System lands.

I consider this project EA as appropriately tiered under the guidelines and direction of the Forest Plan and Final EIS and as prescribed under NEPA (40 CFR 1502.20). NEPA provisions have been followed as required under 40 CFR 1500.

VIII FINDING OF NO SIGNIFICANT IMPACT

Based on my review of the EA, I conclude the proposed activities will have no significant impacts on the human environment. It is my decision that an Environmental Impact Statement is not necessary and will not be prepared for this project. This determination is based on the following factors found in 40 CFR 1508.27:

1. *Based on the EA there are no impacts, adverse or beneficial that were determined to be significant.*

2. *None of the activities associated with this project have a significant effect on public health or safety.*

3. *Based on review of the project area and the site-specific locations of activities, there are no known effects to any unique characteristics of the area. No project activities will occur within any inventoried roadless area.*

4. *Based on the analysis and disclosure of effects in the EA there are no highly controversial effects on the quality of the human environment identified with this project.*

5. *The environmental analysis did not identify any effects that are highly uncertain or that involve unique or unknown risks.*

6. *This action will not establish a precedent for future actions with significant effects or represent a decision in principle about future considerations.*

7. *There are no significant cumulative effects.*

8. *There are no impacts to known cultural resources.*

9. *There are no known Threatened or Endangered species or their habitats that have been determined to be critical under the Endangered Species Act 1973 (reference Biological Evaluations, Appendix D of Burnout EA).*

10. *This project complies with all Federal, State, and local laws and requirements for the protection of the environment.*

IX. IMPLEMENTATION DATE AND APPEAL RIGHTS

This decision is subject to appeal under 36 CFR 217. Specific procedures for filing an appeal are located in 36 CFR 217.9. Copies of the appeal regulation are available at local Forest Service offices.

To be considered a valid appeal:

1. *The appeal must be filed within 45 days of publication of this notification of decision in the Sun Advocate newspaper. This time period starts the day after publication and includes all calendar days.*

2. *The appellant must file two (2) copies of the Notice of Appeal in accordance with regulations contained in 36 CFR 217.9 with the Regional Forester, Intermountain Region, Federal Building, 324 25th Street, Ogden, Utah, 84401. The Regional Forester is the Reviewing Officer.*

It is the responsibility of those who appeal a decision to provide the Reviewing Officer sufficient narrative evidence and argument to show why the decision should be changed or reversed. The appellant must identify the specific change(s) in the decision which is being sought. Minimum requirements for the written notice of appeal are identified in 36 CFR 217.9 (b).

The Reviewing Officer shall render his/her appeal decision not more than 100 days from the date the appeal was filed. This review period may be extended to allow for conduct of meaningful negotiations (36 CFR 217.12 (a). If the project or activity would be implemented before an appeal decision could be issued, the Reviewing Officer will consider written requests to stay implementation of the decision, pending completion of the review. To request a stay of implementation, a written request must be filed with the Reviewing Officer as prescribed in the 36 CFR 217.10.

The project initiation date for this decison may take place 30 days after publication in the Sun Advoacte.

X. CONTACT PERSON

For additional information concerning my decision or the Forest Service appeal process, please contact Charles J. Jankiewicz, District Ranger, at the Price Ranger District Office, 599 West Price River Drive, Price, Utah 84501 or by telephone at 801-637-2817.

George A. Morris

GEORGE A. MORRIS
FOREST SUPERVISOR
MANTI-LA SAL NATIONAL FOREST

6/10/93
Date