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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
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September 27, 1993

Mr. Ken Payne, Manager
Utah Fuel Company
P. O. Box 719
Helper, Utah 84526

Re: Burnout Creek Subsidence Mitigation Plan, Coastal States Energy Company, Skyline, Mine, ACT/007/005, Folder #3, Carbon County, Utah

Dear Mr. Payne:

The Division is aware that an Environmental Assessment (EA) has recently been completed by the Forest Service on Skyline's proposal to mine beneath Burnout Creek. The Finding of No Significant Impact was based on Skyline's commitments to help study subsidence effects and to provide damage mitigation and enhancement of fish and wildlife habitat. While the correspondence is clear that these commitments were made by Skyline, the Mining and Reclamation Plan and approved permit are not. Please refer to the enclosed technical memo which outlines the shortcomings of your plan.

In order to bring your MRP in line with the EA please submit an amendment which discusses your plan to protect Burnout and Upper Huntington Creeks and to mitigate potential subsidence-caused damage. This must be submitted by October 25, 1993.

Please call me or Paul Baker, Senior Reclamation Biologist if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Daron R. Haddock".

Daron R. Haddock
Permit Supervisor

Enclosure

cc: P. Baker
S. Demczak
SUBSLETT.SKY





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TO: File

THROUGH: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist 

DATE: August 13, 1993

RE: Burnout Creek Subsidence Mitigation Plan, Coastal States Energy and Skyline Coal Companies, Skyline Mines, Folder #2, ACT/007/005, Carbon County, Utah

SUMMARY

The permit renewal technical deficiency review included a deficiency stating that the mitigation plan associated with allowing subsidence in the Burnout Creek area needed to be included in Skyline's plan. The Forest Service has conducted an Environmental Assessment (EA) for allowing this mining and has made a finding of no significant impact based on certain protection, mitigation and study proposals. Assuming that Skyline proceeds to mine the area and fund the mitigation and other proposals contained in the EA, these plans need to be contained in Skyline's mining and reclamation plan.

ANALYSIS

Skyline stated in correspondence to the Forest Service dated June 15, 1992, that it has always been and continues to be their intent to mine under Burnout Creek and to remove coal to the full extent possible. The correspondence also states that Skyline has committed to help study subsidence effects and to provide mitigation and enhancement.

The Forest Service responded to this letter by stating that it was necessary to obtain specific approval prior to conducting mining operations that could result in subsidence of perennial streams. Subsequently, an Environmental Assessment of Skyline's proposal and potential alternatives was prepared. The Forest Supervisor issued a finding of no significant impact for the proposal. He considered that all of the mitigation measures and monitoring requirements found in Appendices A, B, and C of the EA are essential to implementation of the project, and he found that Alternative B (the proposed action) contained in the EA was consistent with the Forest



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Plan.

The permit renewal technical deficiency review contained the following deficiency:

As it is developed, the plan for mitigation of loss of wildlife values due to subsidence in the Burnout Creek area must be incorporated into the plan.

Skyline's response to this deficiency was:

The referenced mitigation plan is part of a subsidence issue being pursued by the Forest Service. While the applicant has no problem with keeping the Division informed on the progress of this developing activity, inserting the mitigation plan in the M&RP essentially gives the Division modification and approval rights for the plan and potentially places the applicant in a difficult position between agencies. Since the scope of this effort appears to be beyond the requirements of 301-330, it is suggested that the Division pursue requirements related to this issue directly with the Forest Service.

After receiving Skyline's initial response to the review, the Division conducted an administrative review of the responses. This administrative review stated:

This is a Forest Service, DWR, and DOGM issue and needs to be done. Mitigation of wildlife issues is certainly within the scope of R645-301-330 and it is the Applicants responsibility to provide mitigation measures. Efforts in this area must be correlated through the Division.

The referenced plan has now been finalized with the Forest Service and needs to be included in the Skyline MRP.

Skyline has continually maintained that the mitigation and study measures in this proposal are not within their control and, therefore, should not be included in the MRP. Although the plans have been developed primarily in consultation with the Forest Service, the Division has maintained interest in the plans and needs to be able to be able to review them to make findings that the best technology currently available is being used to protect and enhance fish and wildlife habitat.

R645-301-332 requires that the plan contain descriptions of how impacts to renewable resource lands will be mitigated. R645-301-333 requires that the plan contain a description of how the operator will use the best technology currently

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available to minimize impacts to fish and wildlife and related environmental values. The proposal to subside certain areas in the Burnout Creek area may have adverse effects on fish spawning habitat. The plan needs to show how these effects will be minimized and mitigated. If the plan described in the EA is not contained in the MRP, the Division cannot determine, based on the plan, that the best technology currently available is being used to protect and enhance fish and wildlife habitat.

RECOMMENDATIONS

The plan to protect Burnout and Upper Huntington Creeks and to mitigate potential subsidence-caused damage to them which has been developed by Skyline and the Forest Service needs to be contained in Skyline's mining and reclamation plan.