



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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TO: File

THROUGH: Daron Haddock, Permit Supervisor

FROM: Paul Baker, Reclamation Biologist 

DATE: February 7, 1994

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

In response to a Division request, Skyline submitted a plan amendment to address mitigation of potential subsidence damage to Burnout Creek. On December 8, 1993, the Division requested that information concerning what the Forest Service has termed off-site mitigation be included in the mining and reclamation plan. The "off-site mitigation" is intended to be a fish passage structure at Boulger Reservoir. Skyline's response was that the Boulger Reservoir fish habitat project is not being done as a mitigation project and that this is an issue between Utah Fuel Company and the Forest Service.

The Division understands the concern that Skyline has about calling the Boulger Reservoir project "mitigation". Skyline's viewpoint appears to be that they are already planning to mitigate any subsidence-caused damage by repairing it on site, in other words at Burnout Creek. For this reason, the Boulger Reservoir project should probably be called "enhancement" rather than "mitigation".

R645-301-333 requires a description of how enhancement of fish and wildlife and related environmental values will be achieved. This description is to apply, at a minimum, to species or habitats identified through agency consultation as requiring special protection under state or federal law in the permit and adjacent areas. R645-301-358 states, "The operator will, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife, and related environmental values and will achieve enhancement of such resources where practicable." The Burnout and Boulger Creek mitigation and enhancement projects will have the net result of enhancing fish spawning habitat in the Electric Lake area. Enhancement achieved by the operator's efforts should be identified in the mining and reclamation plan.

The necessity of including the Boulger Creek project in the mining and reclamation plan was also discussed with Gaylen Figgs with the Office of Surface Mining. He agreed that the project is enhancement that should be mentioned in the mining and reclamation plan.

The project at Boulger Reservoir clearly has the potential of creating a habitat of



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unusually high value for wildlife. It is intended that this project will increase the available spawning habitat for Yellowstone cutthroat trout in an area that is the only source of disease-free eggs of this species in Utah.

Although Boulger Reservoir is not within Skyline's permit area, the lower part of Boulger Creek is. The reservoir is a short distance away and is included within the Cumulative Hydrologic Impact Assessment area. Therefore, Boulger Reservoir should be considered as being within an area adjacent to the permit area. According to R645-301-333 discussed above, the enhancement plan applies to adjacent areas.

The Fish and Wildlife Plan contained in Section 4.18 of Skyline's mining and reclamation plan includes several wildlife and wildlife habitat protection measures, but none of these appear to be enhancement. Including the Boulger Reservoir project in the mining and reclamation plan would allow the Division to make a determination that some habitat enhancement has been performed. There are other enhancement features of the mining and reclamation plan which are not identified, and it may be possible to perform further enhancement measures at minimal cost. These issues will be addressed in a future review.

Because the Boulger Reservoir project is not under Skyline's direct control, there appears to be some concern about committing to it. What if someone changes their mind and decides that this is not a good idea? The details of the plan are being developed by the Forest Service and the Division of Wildlife Resources (DWR) without substantial input from Skyline. Any commitment or designs in the mining and reclamation plan might be invalidated in the Forest Service/DWR planning.

To resolve these concerns but also address the regulatory requirements, Skyline could either commit to the project in a general way or provide information about the project after it is completed. I have discussed these options with personnel at Skyline, and they have verbally agreed to include the Boulger Reservoir project in the mining and reclamation plan at some point after the project has been completed. The mid-term review should be done later this year; this may be a good opportunity to incorporate the project in the plan.

The Division is interested in seeing that operators use opportunities for wildlife habitat enhancement. If enhancement is being performed, it should be identified in the mining and reclamation plan.