



United States Department of the Interior

FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

RECEIVED

NOV 26 2002

DIV OF OIL GAS & MINING

In Reply Refer To

FWS/R6
ES/UT

November 25, 2002

Joe Helfrich
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801

RE: Informal section 7 Endangered Species Consultation, 1996 Biological Opinion
Coordinated Review Winter Quarters Tract, Canyon Fuel Co. LLC, Skyline Mine,
C/007/005-SR021

*Incoming
C/007/005
Copy Done?
Pissille*

Dear Mr. Helfrich:

The U.S. Fish and Wildlife Service (Service) has reviewed your letters of November 15 and November 21, 2002. Potential impacts to proposed or listed species from mining activities have been previously addressed in the Service's September 24, 1996 Biological Opinion and Conference Report on Surface Coal Mining and Reclamation Operations under the Surface Coal Mining and Reclamation Act of 1977. As part of the terms and conditions of this BO, the regulatory authority must implement and require compliance with any species-specific protective measures developed by the Service field office and the regulatory authority.

Surface water depletions of more than 100 acre/ft/yr adversely affect four listed threatened and endangered fish species of the upper Colorado River drainage. Consequently, the U.S. Fish and Wildlife Service require mitigation when water depletions exceed 100 acre-feet annually. None of the approximately 51,870,720 gallons/yr (159 acre/feet/year) of water consumed for mining is from surface sources nor does it deplete surface water sources. The projected mine water discharge rate of 2,800 gpm (4517 acre/ft/yr) to Eccles Creek is water the mining operators have estimated to be 4,000 to 25,000 years old. Thus there is no depletion to the upper Colorado River drainage from this project.

Based on the estimation that this project does not result in a depletion to the upper Colorado River drainage, we concur with your "no effect" determination for the bonytail, humpback chub, Colorado pikeminnow, razorback sucker and critical habitat. We also concur with your "no effect" determination for the remaining four threatened and endangered species and critical habitat included in the species list for Carbon County: Mexican spotted owl, bald eagle, black-footed ferret and Graham beardtongue. Therefore, no endangered species-specific protective measures for these four are considered necessary for the subject project. Should project plans

change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

Only a Federal agency can enter into formal Endangered Species Act section 7 consultation with the Service. A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such a designation. The ultimate responsibility for compliance with ESA section 7, however, remains with the Federal agency.

We commend your agency's continued efforts to conserve endangered and sensitive species, including raptors. In this instance, we appreciate that the permittee has committed in the lease tract application to conduct a raptor survey in the early summer of 2003. As you are aware, we have developed and recommend the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* to assist agencies and individuals with raptor-sensitive project planning. Seasonal and spatial buffers of inactivity are recommended for raptor nest sites.

We appreciate your interest in conserving endangered species. If further assistance is needed or you have any questions, please contact Diana Whittington, at (801) 975-3330 extension 128.

Sincerely,



Henry R. Maddux
Utah Field Supervisor

cc: Office of Surface Mining, (Attention: Ron Sassaman), Denver Field Division, 1999
Broadway, Suite 3320, Denver, Colorado 80202-5733

UDWR - Salt Lake City (Attn: Frank Howe)