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DIVISION OF OIL, GAS AND MINING

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October 3, 2002

TO: Internal File

THRU: Priscilla Burton, Senior Reclamation Soils Specialist/Team Lead

FROM: Joe Helfrich, Biologist 

RE: Winter Quarters North Lease, Canyon Fuel Company, LLC, Skyline Mine, C/007/005 SR02I

SUMMARY:

On September 4, 2002 Canyon Fuel Co., LLC submitted a significant permit revision to add 3,291 acres of federal lease UTU-67939 to its permit area for the Skyline Mine. The new lease # UTU-67939 is located in the area of Woods, Winter Quarters, and Green canyons southwest of the town of Scofield in Carbon County. The area encompassed by the lease can be found on drawing number 1.6-3 of the application. There is no additional surface disturbance associated with this lease addition. The Division of Oil, Gas and Mining determined the Winter Quarters Tract lease addition to the Skyline Mine administratively complete on September 30, 2002. An environmental assessment was prepared by the U.S. Forest Service in 1995 and a Joint Finding of No Significant Impact / Decision Notice / Rationale was prepared by the BLM and Forest Service on January 23, 1996. This memo will address the Biology, (wildlife), requirements of the regulations as they apply to the application.

TECHNICAL MEMO

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

Analysis:

U.S. Forest Service Lease Stipulation #1 requires that a cultural resource inventory and a paleontological appraisal of the areas to be disturbed.

Section 2.1.1 of the MRP discusses the Cultural, Historical, and Archeological resources. This section refers to the 1995 Environmental Assessment (EA) Appendix B (Criterion Number 7) which states that there are no properties included in the National Register of Historic Places on or near the proposed lease tract. Section 2.1.1 also refers to Page 10 section H of the EA which states that "Leasing of the tract should not result in significant impacts to cultural or paleontological resources." Reliance on the EA for the bulk of the information in the narrative of the application makes inclusion of the EA as an appendix mandatory (see deficiency written under R645-301-122).

In Section 2.1.1, the application refers to a 1996 Archaeological-Environmental Research Corporation (AERC) Report entitled "Cultural Resource Evaluation of Proposed Drillholes & Associated Access Routes in the Upper Winter Quarters Canyon and Winter Quarters Ridge Locality of Carbon County, Utah," and a December 6, 1996 letter from the State Historical Preservation Office (SHPO). Both documents were supposed to be found in Appendix A-3, but could not be found either in the application or in the approved MRP Appendix A-3.

As required by regulation the Division has notified the State Historic Preservation Office of Canyon Fuel's application to mine in the identified lease area and requested their concurrence with the EA and current findings.

Findings

The information in the Mining and Reclamation Plan, MRP, and Environmental Assessment, EA, does not meet the requirements of this section of the regulations. Prior to approval, the Permittee must provide the following in accordance with:

R645-301-411.140 and 411.142, The Permittee must provide the 1996 Archaeological-Environmental Research Corporation (AERC) Report entitled "Cultural Resource Evaluation of Proposed Drillholes & Associated Access Routes in the Upper Winter Quarters Canyon and Winter Quarters Ridge Locality of Carbon County, Utah," and a December 6, 1996 letter from the State Historical Preservation Office (SHPO). Neither document could be found within Appendix A-3.

R645-301-411.143, The application must address the potential for subsidence to effect cultural resources in the area. The discussion should include areas or geologic formations where archeological sites have been found and the potential of historic /archeological sites to occur in areas where surface disturbing subsidence is expected. The need for additional surveys should be addressed.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

Analysis:

The Fish and Wildlife Information is provided for in Sections 2.8 through 2.10 of the application, and volume 1A of the approved Mining and Reclamation Plan (MRP). Sec. 2.1.2, and 2.7.6, and 2.10.2 discuss Threatened & Endangered (T & E) species. Sections 2.8, 2.9 and 2.9-5 discuss aquatic and terrestrial wildlife information. Sections 2.10 and 2.10.2 discuss raptors.

Drawing 1.6-3 has been revised to include the proposed addition to the permit area. This map shows the addition of the lease boundary. The proposed addition to the permit area includes critical value summer deer and elk and high value winter moose habitats. The applicant has committed to conduct raptor, macroinvertebrate and fish surveys during early summer 2003, prior to any subsidence occurring in 2004. The application must describe the methods used to conduct the macroinvertebrate and fish sampling. Permanent survey transects and protocol must be established described in the application so that these surveys can be repeated if surveyors change.

Raptor baseline raptor monitoring is generally done prior to permit issuance. Since the permit will be issued prior to the baseline sampling the permit must be stipulated so that second or longwall mining may not occur until the Division, in consultation with other state and federal wildlife agencies, reviews the raptor survey data and mining plan.

TECHNICAL MEMO

The Division has asked the Permittee for information on the perennial nature of the streams and the reaches of the streams in the Environmental Resources Hydrologic Resource Information section of this TA.

The entire North Lease area is considered critical value elk summer use area and a high value deer summer use area on the Utah Natural Heritage Program database (email communication from Anne Axel Information Manager, Utah Natural Heritage Program, Utah Division of Wildlife Resources, 10/21/02). The database showed no records of occurrence of threatened, endangered, or sensitive plant or animal species in the proposed addition. No raptor nests were shown on this database or the DWR database.

Findings

The information contained in this section of the application is adequate to meet the requirements of this section of the regulations. The permit must be stipulated that second or longwall mining may not occur until the Division, in consultation with other state and federal wildlife agencies, reviews the raptor survey data and mining plan. Prior to approval the applicant needs to provide the following in accordance with:

R645-301-322.200, Survey protocol must be established for macroinvertebrate and fish sampling. The survey must be conducted for two years prior to mining and two years after mining in the area.

MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

Analysis:

Archeological Site Maps

The 1996 archaeological information is missing from Appendix A-3 (see deficiency written under R645-301-411.140 and -411-142). Cultural Resource Maps

The SR proposal extends the underground mining operations. There is no change to the approved MRP.

Wildlife Maps

Wildlife maps are provided for in Appendix A-2 North Lease of the application and volume A-2 of the MRP. The applicant has committed to conduct a current raptor survey in the early summer 2003, prior to longwall mining.

Findings:

The information in the application and Mining and Reclamation Plan, (MRP), is adequate to meet the requirements of this section of the regulations.

OPERATION PLAN

PROTECTION OF PUBLIC PARKS AND HISTORIC PLACES

Regulatory Reference: 30 CFR784.17; R645-301-411.

Page 10 section H of the Environmental Assessment for the lease area states that "Leasing of the tract should not result in significant impacts to cultural or paleontological resources." According to Appendix B of the EA there are no public roads, cemeteries, public buildings, or occupied dwellings within the proposed lease area. Supporting documents for these statements were requested earlier in this TA under deficiency R645-301-411.140 and -411.142.

Findings

The information in the Mining and Reclamation Plan, MRP, and Environmental Assessment, EA, is not adequate to meet the requirements of this section of the regulations, see deficiency written under R645-301-411.140 and -411.142

TECHNICAL MEMO

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Protection and Enhancement Plan

Potential impacts from mining would be best characterized as habitat loss. Since there will be no surface disturbance the only potential impact would be habitat loss resulting from subsidence. The current application anticipates mining underneath perennial streams but does not address the protection of fish and wildlife. The application must include a description and protection measures from subsidence of specific areas where habitat loss might occur.

Endangered and Threatened Species

According to the 1995 Environmental Assessment written jointly by the USFS and the BLM, the listed threatened, endangered and/or sensitive species that may occur within the proposed lease area are the Bald Eagle, Northern three-toed woodpecker, and Northern Goshawk. Suitable bald eagle nesting habitat does not occur in the permit area. The bald eagle would only occur as a winter resident and surveys will not be conducted. Concurrence from the Fish and Wildlife Service cannot be obtained until the applicant has completed a current raptor survey (Meeting between DOGM, Skyline Mine, USFS, USFWS, UDWR and BLM on 9/27/2002). The Permittee has committed in the application to conduct a raptor survey in the early summer of 2003. A survey for the three-toed woodpecker must also be conducted. If either of the species noted in the EA are observed, the application should then describe protection measures (as noted in the previous section).

Most threatened or endangered species that could occur in Carbon County occur at lower elevations than the mine and have no habitat in the proposed permit area expansion.

There have been no confirmed sightings of Black-Footed Ferrets in Carbon County in several years.

The mine has potential, through water depletions, of adversely affecting four listed threatened and endangered fish species of the upper Colorado River drainage. The Fish and Wildlife Service requires mitigation when water depletions exceed 100 acre-feet annually. There is no information in the application regarding the consumption rate of water for mining in the proposed lease area.

Bald and Golden Eagles

Bald eagles are common in the area during the winter and could occasionally fly through or roost in the proposed addition to the permit area. Mining would have negligible effects on these birds. The applicant has committed to conduct a raptor survey in the spring prior to subsidence that may occur in Summer of 2004.

Wetlands and Habitats of Unusually High Value for Fish and Wildlife

The perennial streams, springs and riparian areas within the proposed lease area would be considered habitats of high value for fish and wildlife. The 1995 EA reports that the riparian habitat appears to be in excellent condition on the forest (in the North Lease area), but below the forest boundary to the east it has been heavily impacted by livestock grazing.

The applicant has committed to surveying perennial flows in the lease area for fish and amphibian habitat. **The Division and the USFWS and the UDWR will determine the survey protocol, scope and level of detail.**

Findings:

The information contained in this section of the application is not adequate to meet the requirements of the regulations. Prior to approval the applicant needs to provide the following in accordance with:

R645-301-333, The applicant needs to commit to develop and implement a mitigation and protection plan in cooperation with Wildlife Resources and the Division. The consumption rate of water, (acre/feet), from mining activities needs to be provided.

R645-301-333, The application must describe specific areas where habitat loss might occur from subsidence and then describe specific protection measures that will be provided.

RECOMMENDATIONS:

The application is not recommended for approval at this time.