0048 United States Department of Agriculture | Forest Service | Manti-LaSal National Forest | Price Ranger District 599 West Price River Dr. Price, Utah 84501

D-3

Reply to: 2820/2620

Date: May 3, 1989

FOREST SERVICE
MANTI-LASAL NATIONAL FOREST
PRICE RANGER DISTRICT
MAY - 4 1989
ACTION | TO | INFO
DFR

Mr. Robert G. Ruesink
Utah State Supervisor
U.S. Fish and Wildlife Service
1745 West 1700 South
Salt Lake City, Utah 84104-5510

Dear Mr. Ruesink:

As you were previously notified in earlier correspondence to you dated March 29, 1989, we have received an application for Cypress-Plateau Mining Corporation to lease the proposed Castle Valley Ridge Tract. Since this proposed tract contains Federal minerals and lands administered by the BLM and FS respectively, an environmental assessment is being conducted jointly between the two agencies. All of the area within the tract has been cleared through general BLM and FS planning documents subject to appropriate application of site-specific coal lease unsuitability criteria.

According to Cypress-Plateau's wildlife study on the tract, "baseline descriptions of wildlife in the vicinity of the tract have been extensively conducted on lands within Cyprus-Plateau's present mine permit area. Three sites -- the Corner Canyon Fan site, proposed Seeley Canyon breakout, and the proposed Gentry Mountain Shaft site -- lying slightly to the south and east were intensively sampled in 1981 and 1982. Slightly to the north, Beaver Creek Coal Company conducted extensive wildlife inventories in 1980 and 1981. These original studies have been supplemented by annual raptor surveys conducted by Cyprus-Plateau, UDWR, and USFWS since 1981." Refer to attached maps for location and raptor inventory which reflects the joint BLM/DOGM/Cypress-Plateau helicopter survey conducted last summer. The Forest Botanist has inventoried the tract and has identifed no habitat for T.E. or S. plant species.

The process to be used in assessing unsuitability criteria is found in 43 CFR 3461.1. Because the coal would be mined by underground mining methods, the underground mining exemption from criteria can generally be followed (43 CFR 3461.2). This exemption states: "Federal lands with coal deposits that would be mined by underground mining methods shall not be assessed as unsuitable where there would be no surface coal mining operations, as defined in 3400.0-5 of this title, on a lease if issued." However, because of potential impacts to the surface due to subsidence, we have evaluated the application of the unsuitability criteria. Our assessment of the criteria that refer to T.E. and S. flora and fauna is as follows:

Criterion Number 9. There is no federally designated or proposed critical or essential habitat for Threatened or Endangered floral or faunal species found in the tract area.

Criterion Number 10. There is no State designated critical or essential habitat for Threatened or Endangered floral or faunal species found in the tract area.

Criterion Number 11. There are no bald or golden eagle aeries found within the tract area.

Criterion Number 12. There are no bald or golden eagle roosts nor concentration areas found within the tract area.

Criterion Number 13. There are no known falcon cliff nesting sites within the tract area.

Criterion Number 14. There are no lands within the tract area which are high priority habitat for migratory bird species of high Federal interest.

Criterion Number 15. There are lands within the proposed tract which are fish and wildlife habitat for resident species of high interest to the State. However, the stipulated methods of coal mining will not have a significant long-term impact on the species being protected.

Would you please send your comments regarding our assessment of application of the aforementioned unsuitability criteria and your concurrence, as appropriate? Due to time constraints, please submit any comments by May 19. We will consider no response as concurrence.

If you have any questions concerning the proposal, please feel free to contact Rod Player or Walt Nowak of this office.

Sincerely,

/s/ Aaron L. Howe

for
GEORGE A. MORRIS
Forest Supervisor

Enclosures

cc: T. McParland, BLM-Moab
J. Frandsen
R. Player
L. Dalton, DWR-Price
D-3

WNowak:tm

Appendix C - Special Lease Stipulations

Sec. 15. SPECIAL STIPULATIONS.

1. The Regulatory Authority shall mean the State Regulatory Authority pursuant to a cooperative agreement approved under 30 CFR Part 745 or in the absence of a cooperative agreement, Office of Surface Mining. The Authorized Officer shall mean the State Director, Bureau of Land Management. The Authorized Officer of the Surface Management Agency shall mean the Forest Supervisor, Forest Service. Surface Management Agency for private surface is the Bureau of Land Management. For adjoining private lands with Federal minerals and which primarily involve National Forest Service issues, the Forest Service will have the lead for environmental analysis and, when necessary, documentation in an environmental assessment or environmental impact statement.

2. The Authorized Officers, of the Bureau of Land Management, Office of Surface Mining (Regulatory Authority), and the Surface Management Agency (Forest Service) respectively, shall coordinate, as practical, regulation of mining operations and associated activities on the lease area.

3. In accordance with Sec. 523(b) of the "Surface Mining Control and Reclamation Act of 1977," surface mining and reclamation operations conducted on this lease are to conform with the requirements of this Act and are subject to compliance with Office of Surface Mining Regulations, or as applicable, a Utah program equivalent approved under cooperative agreement in accordance with Sec. 523(c). The United States Government does not warrant that the entire tract will be susceptible to mining.

4. Federal Regulations 43 CFR 3400 pertaining to Coal Management make provisions for the Surface Management Agency, the surface of which is under the jurisdiction of any Federal agency other than the Department of Interior, to consent to leasing and to prescribe conditions to insure the use and protection of the lands. All or part of this lease contain lands the surface of which are managed by the United States Department of Agriculture, Forest Service Manti-LaSal National Forest.

The following stipulations pertain to the Lessee responsibility for mining operations on the lease area and on adjacent areas as may be specifically designated on National Forest System lands.

5. Before undertaking activities that may disturb the surface of previously undisturbed leased lands, the Lessee may be required to conduct a cultural resource inventory and a paleontological appraisal of the areas to be disturbed. These studies shall be conducted by qualified professional cultural resource specialists or qualified paleontologists, as appropriate, and a report prepared itemizing the findings. A plan will then be submitted making recommendations for the protection of, or measures to be taken to mitigate impacts for identified cultural or paleontological resources.

If cultural resources or paleontological remains (fossils) of significant scientific interest are discovered during operations under this lease, the Lessee prior to disturbance shall, immediately bring them to the attention of the appropriate authorities. Paleontological remains of significant scientific interest do not include leaves, ferns, or dinosaur tracks commonly encountered during underground mining operations.

The cost of conducting the inventory, preparing reports, and carrying out mitigating measures shall be borne by the Lessee.

6. If there is reason to believe that threatened or endangered (T&E) species of plants or animals, or migratory bird species of high Federal interest occur in the area the Lessee shall be required to conduct an intensive field inventory of the area to be disturbed and/or impacted. The inventory shall be conducted by a qualified specialist and a report of findings will be prepared. A plan will be prepared making recommendations for the protection of these species or action necessary to mitigate the disturbance.

The cost of conducting the inventory, preparing reports, and carrying out mitigating measures shall be borne by the Lessee.

7. The Lessee shall be required to perform a study to secure adequate baseline data to quantify the existing surface resources on and adjacent to the lease area. Existing data may be used if such data is adequate for the intended purposes. The study shall be adequate to locate, quantify, and demonstrate the inter-relationship of the geology, topography, surface hydrology, vegetation, and wildlife. Baseline data will be established so that future programs of observation can be incorporated at regular intervals for comparison.

8. Powerlines used in conjunction with the mining of coal from this lease shall be constructed so as to provide adequate protection for raptors and other large birds. When feasible, powerlines will be located at least 100 yards from public roads.

9. The limited area available for mine facilities at the coal outcrop, steep topography, adverse winter weather, and physical limitations on the size and design of the access road, are factors which will determine the ultimate size of the surface area utilized for the mine. A site specific environmental analysis will be prepared for each new mine site development and for major modifications to existing developments to examine alternatives and mitigate conflicts.

10. Consideration will be given to site selection to reduce adverse visual impacts. Where alternative sites are available, and each alternative is technically feasible, the alternative involving the least damage to the scenery and other resources shall be selected. Permanent structures and facilities will be designed, and screening techniques employed, to reduce visual impacts, and where possible achieve a final landscape compatible with the natural surroundings. The creation of unusual, objectionable, or unnatural land forms and vegetative landscape features will be avoided.

11. The Lessee shall be required to establish a monitoring system to locate, measure, and quantify the progressive and final effects of underground mining activities on the topographic surface, underground and surface hydrology and vegetation. The monitoring system shall utilize techniques which will provide a continuing record of change over time and an analytical method for location and measurement of a number of points over the lease area. The monitoring shall incorporate and be an extension of the baseline data.

12. The Lessee shall provide for the suppression and control of fugitive dust on haul roads and at coal handling and storage facilities. On Forest Development Roads (FDR), Lessees may perform their share of road maintenance by a commensurate share agreement if a significant degree of traffic is generated that is not related to their activities.

13. Except at specifically approved locations, underground mining operations shall be conducted in such a manner so as to prevent surface subsidence that would: (1) cause the creation of hazardous conditions such as potential escarpment failure and landslides, (2) cause damage to existing surface structures, or (3) damage or alter the flow of perennial streams. The Lessee shall provide specific measures for the protection of escarpments, and determine corrective measures to assure that hazardous conditions are not created.

14. In order to avoid surface disturbance on steep canyon slopes and to preclude the need for surface access, all surface breakouts for ventilation tunnels shall be constructed from inside the mine, except at specifically approved locations.

15. If removal of timber is required for clearing of construction sites, etc., such timber shall be removed in accordance with the regulations of the surface management agency.

16. The coal contained within, and authorized for mining under this lease, shall be extracted only by underground mining methods.

17. Existing Forest Service owned or permitted surface improvements will need to be protected, restored, or replaced to provide for the continuance of current land uses.

18. In order to protect big game wintering areas, elk calving and deer fawning areas, sagegrouse strutting areas, and other critical wildlife habitat and/or activities, specific surface uses outside the mine development area may be curtailed during specific periods of the year.

19. Support facilities, structures, equipment, and similar developments will be removed from the lease area within 2 years after the final termination of use of such facilities. This provision shall apply unless the requirement of Section 10 of the lease form is applicable. Disturbed areas and those areas previously occupied by such facilities will be stabilized and rehabilitated, drainages reestablished, and the areas returned to a premining land use.

20. The lessees at the conclusion of the mining operations, or at other times as surface disturbance related to mining may occur, will replace all damaged, disturbed, or displaced corner monuments (section corners, quarter corners, etc.) their accessories and appendages (witness trees, bearing trees, etc.), or restore them to their original condition and location, or at other locations that meet the requirements of the rectangular surveying system. This work shall be conducted at the expense of the lessee, by a professional land surveyor registered in the State of Utah and to the standards and guidelines found in the manual of surveying instruction, U.S. Department of Interior.

21. The Lessee at his expense will be responsible to replace any surface water identified for protection, that may be lost or adversely affected by mining operations, with water from an alternate source in sufficient quantity and quality to maintain existing riparian habitat, fishery habitat, livestock and wildlife use, or other land uses.

22. The lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in the lease. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of Interior, (2) uses of all existing improvements, such as Forest Development Roads, within and outside the area licensed, permitted or leased by the Secretary of Interior, and (3) use and occupancy of the NFS not authorized by a permit/operation plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to:

Forest Supervisor
Manti-LaSal National Forest
599 West Price River Drive
Price, Utah 84501

Telephone No.: 801-637-2817

who is the authorized representative of the Secretary of Agriculture.