



United States Department of the Interior  
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE  
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SALT LAKE CITY, UTAH 84115

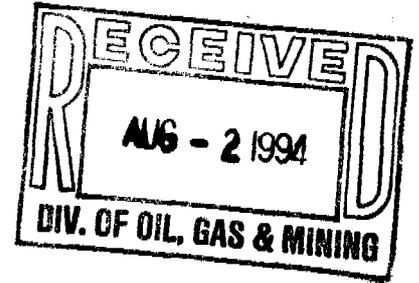
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*ACT/002/006 #2*

In Reply Refer To

(ES)

July 28, 1994

Charles J. Jankiewicz  
Price Ranger District  
Manti-La Sal National Forest  
599 West Price River Dr.  
Price, Utah 84501



Dear Mr. Jankiewicz:

In accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the Interagency Cooperation Regulations (50 CFR 402), the Fish and Wildlife Service (Service) reviewed your July 12, 1994 correspondence regarding the impacts of the coal exploration drilling by Cyprus Plateau Mining Company on the Trough Springs Ridge and Wild Cattle Hollow tract located on Federal coal lease UTU-69099 on endangered Colorado River fish. The proposed action will cause a average annual depletion of 3.32 acre-feet.

A Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin (Recovery Program) was initiated on January 22, 1988. The Recovery Program was intended to be the reasonable and prudent alternative to avoid jeopardy to the endangered fish by depletions from the Upper Colorado River.

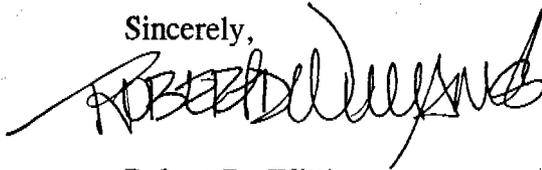
In order to further define and clarify the process in the Recovery Program, a section 7 agreement was implemented on October 15, 1993, by the Recovery Program participants. Incorporated into this agreement is a Recovery Implementation Program Recovery Action Plan (Plan) which identifies actions currently believed to be required to recover the endangered fish in the most expeditious manner in the Upper Colorado River Basin.

Included in the Recovery Program was the requirement that a depletion fee would be paid to help support the Recovery Program. On July 5, 1994 the Service issued a biological opinion determining that the depletion fee for depletions of 100 acre-feet or less are no longer required because the Recovery Program has made sufficient progress to be the reasonable and prudent alternative to avoid the likelihood of jeopardy to the endangered fishes and to avoid destruction or adverse modification of their critical habitat by depletions of 100 acre-feet or less. Therefore, the depletion fee for this project is waived.

The Forest Service should condition their drilling permit to retain jurisdiction in the event that the Recovery Program is unable to implement the Plan in a timely manner. In that case, as long as the lead Federal Agency has discretionary authority over the project, reinitiation of

section 7 consultation may be required so that a new reasonable and prudent alternative can be developed by the Service. The service would like to received copy of the permit when it is issued.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Williams", written over a faint, larger version of the same name.

Robert D. Williams  
Assistant Field Supervisor

cc: Utah Coal Regulatory Program, Division of Oil, Gas, and Mining, 355 West North Temple, 3 Trial Center, Suite 350, Salt Lake City, UT 84180-1203