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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Price Field Office
125 South 600 West
Price, Utah 84501
(435) 636-3600

2800
UTU-77122
(UT-070)

Ms. Mary Ann Wright
Utah Division of Oil Gas and Mining
P. O. Box 145801
Salt Lake City, Utah 84114-5801

RE: Lila Canyon MRP (ACT/007/013)

Dear Ms. Wright:

On November 27, 2000, a Decision Record (copy enclosed) was signed for the Lila Canyon Mine Project. The decision was made to grant right-of-way to Utah American Energy to construct, operate and maintain mine related surface facilities on public lands. In addition the decision was made to grant Emery County a right-of-way to construct operate and maintain a coal haul access road and to grant right-of-way to construct, operate and maintain a 46 kV powerline. Approval of the three rights-of-way would be contingent upon mine plan approval.

The Bureau of Land Management is prepared to grant the right of entry to these public lands. However, the case is in litigation and we are waiting for a decision from the Interior Board of Land Appeals whether to grant the appellants a stay. When this issue is resolved we would be in the position to grant right-of-way.

Our understanding is that the Utah Division of Oil Gas and Mining is unable to approve the mine plan until the UEI has demonstrated the right of entry. In several other similar cases a letter from the Bureau of Land Management has been sufficient to demonstrate the right of entry prior to the actual grants being issued. Our hope is that we can continue providing good customer service by utilizing this arrangement. Another option is that we could have a simultaneous signing of the MRP and the right-of-way grants. Please let us know as soon as possible what option will meet our objectives.

If you have any questions, please feel free to contact Mark Mackiewicz of my staff at (435) 636-3616.

Sincerely,

Tom Rasmussen
Acting Field Manager

Enclosure

cc: Mr. Clyde Borrell

DEC 26 2000
Copy Mary Ann Wright
007/013
Dave
Dave

RECEIVED

DEC 28 2000

DIVISION OF
OIL, GAS AND MINING

DECISION RECORD

ENVIRONMENTAL ASSESSMENT UT-066-98-53

**FINDING OF NO SIGNIFICANT IMPACT FOR
PACIFICORP dba UTAH POWER 69 KV TRANSMISSION LINE
AND
CANYON FUEL COMPANY LLC. ASSOCIATED LINK CANYON
BREAKOUT AND SUBSTATION**

DECISION

It is the decision of the Field Manager of the Bureau of Land Management to select alternative 2, the proposed action, development of the Link Canyon 69 kV power line, breakout and substation. It is also the decision of the Field Manager to grant a right-of-way and temporary use permit to Pacificorp to construct, operate, maintain and terminate a 69 kV powerline. The proposed action outline in the EA as well as the maintenance and operation plan would be attached to the right-of-way grant and incorporated into and made a part of the grant instrument.

Link Canyon 69 k Power Transmission Right-of-Way UTU-74346

The grant would be 50 feet in width, 25 feet on each side of a described centerline and would be approximately 24, 878 feet in length, encompassing 28.56 acres more or less. The right-of-way would be subject to stipulations outlined in regulation, and stipulations developed as a result of mitigation in the EA.

In addition a temporary use permit (TUP) would be issued in association with the right-of-way. The TUP would be 5 feet on each side of the permanent right-of-way and encompass 5.71 acres more or less. The TUP would authorize the use of public lands adjacent to the permanent right-of-way for construction purposes.

Authority for issuing the subject right-of-way and the temporary use permit is outlined in the Federal Land Policy and Management Act of 1976 (90 Stat. 2776, 43 U.S.C 1761) and in Title 43 of the Code of Federal Regulations, part 2800.

MITIGATION

As noted in the EA, the maintenance and operation plan described in Chapter II was designed to minimize most impacts to resources within the project area., In addition, low impact construction and maintenance measures were incorporated into the proposed action. The following mitigation would be completed for the resources noted below.

Wildlife

By completing the proposed construction after April 15 and before December 1 winter deer and elk use in the area would not be significantly impacted.

Raptor Nest Protection

To mitigate impacts to raptor nests and utilization of the project area, projects that would monitor and benefit raptors would be conducted. These actions would include:

1. Where active raptor nests are located, construction would not occur until after August 16 as required by the San Rafael Resource Management Plan and Manti-LaSal Forest Resource Plan.
2. Creation of line of site zone of protection buffer areas around active nests and yearly monitoring of raptor use within the Link Canyon area.

MONITORING

The proposed project will be monitored by a third party compliance contractor as well as inspectors of the Bureau of Land Management. Following construction and reclamation, seeded and hand planted areas will be monitored for revegetation success. Should unsatisfactory reclamation results occur, the right-of-way holder would be required to reseed or replant bare root stock or seedlings.

MANAGEMENT CONSIDERATIONS

The rationale to approve the proposed action was primarily based on the analysis of the environmental impacts presented in the environmental assessment as modified in this decision record. The company has incorporated a variety of measures into the proposed action to mitigate potential impacts from the project. In addition, extensive mitigation has been developed to minimize impacts to the resources. The positive impacts of approving the proposed action outweigh the environmental impacts of the proposal.

As stated under the objectives for the regulations (43 CFR 2800) governing the issuance of rights-of-way, it is the objective of the Secretary of Interior to grant rights-of-way and temporary use permits covered by the regulations to any qualified individual, business entity, or governmental entity and regulate, control and direct the use of said right-of-way on public lands. In doing so the Secretary shall protect the natural resources associated with the public lands and adjacent, private or other lands administered by a government agency and prevent unnecessary and undue environmental damage to the lands and resources.

ALTERNATIVES

Three alternatives, no action, proposed action, and an alternative location of the substation were considered and analyzed in the environmental assessment.

Under the No Action Alternative (Alternative 1) the current situation would be maintained. None of the facilities described in the proposed action would be constructed. This alternative is discussed on 10 of the environmental assessment. Alternative 3, discussed on pages 15 and 16 of the environmental assessment is exclusive to the substation location. This alternative would locate the substation approximately 250 feet east of the location proposed in alternative 2.

PUBLIC INVOLVEMENT

During the initial scoping and preparation of the environmental assessment, the Bureau of Land Management and Forest Service through its third party contractor, received input from federal, state and local agencies. A thirty (30) day public comment period was initiated on July 21, 1998. Comments will be received until August 20, 1998. Comments will be reviewed and taken into consideration. This decision may be modified in response to substantial issues or comments raised during the public comment period.

/S/ Tom Rasmussen
Acting Field Manager

10/27/00
Date

2810
UTU-74346
(UT-066)

**FINDING OF NO SIGNIFICANT IMPACT FOR
PACIFICORP dba UTAH POWER 69 KV TRANSMISSION LINE
AND
CANYON FUEL COMPANY LLC. ASSOCIATED LINK CANYON
BREAKOUT AND SUBSTATION**

ENVIRONMENTAL ASSESSMENT UT-066-98-53

Based on the analysis of potential environmental impacts contained in the attached environmental assessment, I have determined that the impacts are not expected to be significant and an environmental impact statement is not required.

A thorough analysis of the proposed action as well as two alternatives was made in the document. Scoping identified potential impacts to soils, vegetation, hydrology, wildlife, and visuals. The analysis determined that impacts would occur to the resources noted above, but that most impacts could be mitigated through design (mitigation build into the proposal). In those cases where the impacts could not be totally mitigated the impacts were not major in scope or would be of short duration.

/S/ Tom Rasmussen
Acting Field Manager

10/27/00
Date

2890/UTU-76614
2890/UTU-77122
2820/UTU-76617
(UT-070)

**FINDING OF NO SIGNIFICANT IMPACT FOR THE UTAHAMERICAN
LILA CANYON MINE PROJECT AND ACCESS ROAD**

ENVIRONMENTAL ASSESSMENT UT-070-99-22

The analysis determined that impacts would occur to the following resources, but that mitigation through design (mitigation built into the proposal) would resolve most concerns:

- Soils
- Hydrology
- Grazing
- Visuals
- Vegetation/habitat
- Wilderness values
- Wildlife

Where impacts could not be totally mitigated the impacts were not major in scope or would be of short duration.

The coal leases that are included in the proposed action have been examined in the following environmental impact statements (EIS) :

- Development of Coal Resources in Central Utah, Final Environmental Impact Statement, Part 2 Site Specific Analysis, US Geological Survey, 1979.
- Uinta-Southwestern Utah Coal Leasing, Final Environmental Impact Statement, BLM, 1981.
- Uinta-Southwestern Utah Coal Region Round Two, Final Environmental Impact Statement, BLM, 1983.

These leases were included in the foreseeable future development scenarios, hence included in the cumulative impacts analysis of proposed mining (all existing leases and future tracts proposed for leasing).

Based on the analysis of potential environmental impacts contained in the attached environmental assessment, I have determined the impacts are not expected to be significant and an environmental impact statement is not required.

Tom Rasmussen., Acting Field Manager

Date

2890/UTU-76614
2890/UTU-77122
2820/UTU-76617
(UT-070)

DECISION RECORD

ENVIRONMENTAL ASSESSMENT UT-070-99-22

DEVELOPMENT OF THE LILA CANYON PROJECT EMERY COUNTY, UTAH

DECISION

It is the decision of the Price Field Manager of the Bureau of Land Management to select Alternative B outlined in the referenced environmental assessment with modification. This record of decision documents the specific components of my decision and the rationale for my decision.

Elements of the Decision

My decision consists of a number of separate actions designed to meet the purpose and need for this project. Specifically, these actions include:

- Grant right-of-way to UtahAmerican Energy to construct, operate and maintain mine- related surface facilities on the public lands described in the EA administered by the Bureau of Land Management. The right-of-way would encompass approximately 40.0 acres, more or less. The grant would be issued under authority of section 501 (a) of the Federal Land Policy and Management Act of 1976 (90 stat 2776, 43 U.S.C. 1761) The grant would be issued for a term of thirty (30) years, with the right of renewal. The grant would be subject to provisions outlined in the proposed action and specific administrative requirements as outlined in the Code of Federal Regulations(CFR), Chapter 43, part 2800. Since the facilities would be located within the boundaries of a permitted mine, all actions occurring within the permit area would also be under jurisdiction of the Utah Division of Oil, Gas and Mining. *Approval of the right-of-way would be contingent upon mine plan approval.*

- Grant right-of-way to construct, operate and maintain a 46 kV powerline as described in the proposed action. The grant would be issued under authority of section 501 (a) of the Federal Land Policy and Management Act of 1976 (90 stat 2776, 43 U.S.C. 1761.) The grant would be issued for a term of thirty (30) years with the right of renewal. The grant would be subject to provisions outlined in the proposed action and specific administrative requirements as outlined in the Code of Federal Regulations (CFR), Chapter 43, part 2800. *Approval of the right-of-way would be contingent upon mine plan approval.*
- Grant right-of-way to Emery County, Utah to construct, operate and maintain a coal haul access road across public lands as described in the EA. The right-of-way would encompass approximately 30 acres, more or less. The grant would be issued under authority of section 501 (a) of the Federal Land Policy and Management Act of 1976 (90 stat 2776, 43 U.S.C. 1761.) The grant would be issued for a term of thirty (30) years with the right of renewal. The grant would be subject to provisions outlined in the proposed action and specific administrative requirements as outlined in the Code of Federal Regulations (CFR), Chapter 43, part 2800. *Approval of the right-of-way would be contingent upon mine plan approval*

MITIGATION

As noted in the EA, the stabilization, maintenance and operation plan described in Chapter 2.0 was designed to minimize most impacts to resources within the project area. In addition, best management practices for low impact construction and maintenance measures were incorporated into the proposed action.

However, three issues brought up in scoping that were analyzed in detail resulted in a change to the proposed action by the agency or the recommendation for mitigation. These three issues were grazing, wildlife and cultural resources. Detailed discussions of how these issues were treated are discussed below.

Grazing

Analysis determined that potential impacts would occur through vehicular collisions with livestock during the life of the operation. To reduce this potential impact, the construction of a livestock fence on both sides of the haul road was incorporated into the *Stabilization, Operation and Maintenance Plan*. In addition, as a result of splitting the grazing allotment through construction of the proposed fence and the road, potential impacts would occur to the grazing utilization of the allotment. Installation and maintenance of livestock water tanks is also incorporated into the referenced plan to lessen these impacts.

These mitigations were placed in the applicant's proposed action as suggestions to minimize the potential for impact to the respective resources. The applicant has not proposed these, but BLM is requiring them as additional mitigation.

Cultural Resources

It was determined that there could be indirect impacts to a site determined to have cultural and historical significance. As such, it was recommended that UEI submit a data recovery plan for the site. This plan will delineate the objectives of recovery, timeframe for analysis and reporting procedures for any resources identified.

In order to approve the plan, BLM would have to enter into a programmatic agreement with the Utah State Historic Preservation Office and other consulting parties. This agreement would then be signed and approved prior to issuing a notice to proceed.

Wildlife

UEI would be required to provide two guzzlers to benefit bighorn sheep populations and habitat because of the potential loss of seeps. These mitigations were placed in the applicant's proposed action as suggestions to minimize the potential for impact to the respective resources. The applicant has not proposed these, but BLM is requiring them as additional mitigation.

PUBLIC INVOLVEMENT

On March 3, 1999, the scoping process was initiated through notification on BLM's electronic notification bulletin board. A thirty (30) day public comment period was held commencing on March 3, 1999 and ending on April 4, 1999. In addition, newspaper articles or notices appeared in four separate issues of the local newspapers in Carbon and Emery Counties, Utah announcing the scoping meetings and soliciting comments. Scoping meetings were held on March 2, 1999, at the Carbon County Courthouse, as well as on March 4, 1999, at the Emery County Courthouse. Scoping identified the following issues that were carried forward in the document:

- Surface subsidence
- Soils, slope stability and rehabilitation stability
- Ground water and surface water
- Livestock grazing
- Vehicular traffic
- Visual resources
- Vegetation potential for loss in species diversity, cover, productivity
- Wilderness values
- Displacement and direct disturbance of wildlife
- Cultural resources

Data was collected, reviewed for adequacy, and assessed for impacts during a 24-month period following the conclusion of public scoping. The EA was submitted for final public review and comment in July 2000.

Comments received prior to the conclusion of the public comment period on August 7, 2000, included those from the U.S. Fish and Wildlife Service and Emery County Road Department. Specific concerns raised by these entities in regards to threatened and endangered species, hydrology, and assorted information consistency errors were addressed and incorporated into an EA revision. The issue of R.S. 2477 assertion raised by the Emery County Road Department was determined to be beyond the scope of this proposed action and EA, and therefore was not incorporated into the EA revision.

Two hundred and thirty five (235) comments were received in response to a request for public comment on the EA issued on August 10, 2000, by the Southern Utah Wilderness Alliance (SUWA). Although the official comment period ended on August 7, 2000, and the vast majority of the comments were received past the closing date, they were reviewed for content and possible incorporation into the EA revision. Two hundred and twenty-one (221) comments were received that reiterated the general SUWA call for opposition to the proposed action and request for preparation of an EIS. Though substantial in number, the common qualitative nature of the comments provided did not necessitate a modification of the EA. Fourteen (14) comments were received that voiced support of the proposed action. Basis of support for the project came more from a negative response to the SUWA alert, rather than review of the proposed action. Again these comments were assertive in nature and therefore did not provide a basis to modify the EA.

SUWA did provide an official written response to the EA on August 16, 2000, voicing opposition to the proposed action and adequacy of the EA process conducted. Specific points presented included the failure of the document to identify significant impacts to the wilderness, wildlife, visual, recreation, and overall landscape of the project area and adjacent lands, as well as the need for an EIS. Though reviewed in great detail, the concerns voiced by SUWA either lacked indepth quantitative analysis; were absent of quantitative support; or were unfounded. Therefore, these concerns did not require a modification to the EA.

RATIONALE AND MANAGEMENT CONSIDERATIONS

The rationale to approve the proposed action was primarily based on the analysis of the environmental impacts presented in the attached environmental assessment. Both the proponent and BLM have incorporated a variety of measures into the proposed action to mitigate potential impacts from the project.

As stated under the objectives for the regulations (43 CFR 2800) governing the issuance of rights-of-way, it is the objective of the Secretary of Interior to grant rights-of-way and temporary use permits covered by the regulations to any qualified individual, business entity, or governmental entity and regulate, control and direct the use of said right-of-way on public lands.

In doing so, the Secretary shall protect the natural resources associated with the public lands, adjacent private or other lands administered by a government agency and prevent unnecessary and undue environmental damage to the lands and resources. In approving this action, the objectives of the Secretary have been met.

In reaching a decision to grant the subject rights-of-way other factors were considered and discussed below:

Through this decision BLM is only approving the use of public lands for proposed mine surface facilities as related to the mining of coal. Approval of the mine plan and the subsequent mining of coal is under jurisdiction of the Office of Surface Mining Reclamation and Enforcement (OSM). The OSM is a cooperating agency in this environmental assessment. As such, under CEQ regulations can base its recommendation for mine plan approval on this document. The actual approval of the mine plan is made by the Assistant Secretary of the Interior. BLM will make approval of the rights-of-way contingent upon UEI having received approval of their mining plan.

Section 523 (a) of the Surface Mining Control and Reclamation Act (SMCRA) (91 Stat, 445) requires the Secretary of the Interior to establish and implement a Federal regulatory program that applies to all surface coal mining operations that take place on Federal lands. The administration of OSM coal mining requirements of the Federal lands program is delegated to Utah's Division of Oil, Gas and Mining (UDOGM).

The Horse Canyon Permit Application Package (ACT/007/013) was approved and a permit issued for reclamation effective on May 6, 1991. The Lila Canyon Permit Application Package (a significant revision of the Horse Canyon Permit Application Package) is being reviewed by the UDOGM (OSM primacy state under SMCRA). The Permit Application Package review includes a determination of completeness, public comments and technical adequacy determination. This review includes concurring agencies of BLM (surface management agency), the State Historic Preservation Officer (SHPO) (cultural and historical) and commenting agencies, the Utah Division of Wildlife Resources (UDWR) and the United States Fish and Wildlife Service (USFWS), Utah Division of Water Resources (UDWR- State Engineer (Water Rights), Division of Environmental Quality (UDEQ) (air quality, water pollution control) and Utah Department of Transportation (UDOT).

The BLM conducts a resource recovery and protection plan review (R2P2/MER), approves the R2P2 and recommends to DOGM approval of this part of the Permit Application Package. This plan spells out in detail how the lessee will mine the coal for maximum economic recovery. BLM approved the Lila Canyon Mine R2P2 on March 2, 2000.

Under 30 CFR 745.13, the Secretary reserved the authority to approve mining plans or modifications thereto, of Federal coal leases and compliance with NEPA. The UDOGM assists OSM in preparing a decision document that is sent to the Assistant Secretary Lands and Minerals for approval of the Federal Mining and Reclamation Plan (M&RP). The Federal M&RP approval will include any special conditions attached by agencies. UtahAmerican has the following valid Federal coal leases: SL-066145 (Issued 6/19/46), SL-066490 (Issued 12/31/47), and SL-069291 (Issued 4/1/50). UtahAmerican also has the following State of Utah coal leases: U-0126947 (issued 12/1/47), U-014217 (issued 2/1/55), and U-014218 (issued 2/1/55). These leases would be mined upon approval of the mine plan. Conveyance of these leases gives the lessee certain rights and obligations to extract the mineral resources in an environmentally sound manner.

Upon approval of the mine plan, a portion of the Turtle Canyon WSA would be undermined. Minimal impacts in the form of minor subsidence is expected. The incorporation of the original IMP (interim management policy) stipulations for actions resulting from mining of the pre-FLPMA coal leases under the Turtle Canyon WSA would be incorporated for all areas deemed to be affected by subsurface actions. No surface facilities authorized by BLM would be located within the WSA and no actions approved by BLM would impact the WSA.

Surface facilities within the proposed mine site and proposed guzzlers would directly disturb eight acres of the natural wilderness value and future designation of the immediate area as wilderness within the Desolation Canyon Inventory Unit 8. (1999 Utah Wilderness Inventory) Due to topography, the direct area of impact would be restricted to 25.12 acres below the canyon face. In addition, 901 acres within the Desolation Canyon and Turtle Canyon inventory units would be undermined by coal extraction. It should be noted that Desolation Canyon Inventory Unit 8 or the Turtle Canyon Inventory Unit 4 are not designated wilderness study areas, but were found to have wilderness characteristics in the 1999 Utah Wilderness Inventory .

The proposed action meets Wilderness Interim Management Policy objectives. No action is proposed that would impair the wilderness character of the established WSA.

The proposed action is in conformance with the existing BLM land use plan for the area. It also is consistent with the Department of the Interior and BLM Interim Management Guidance for wilderness inventory units. UtahAmerican holds valid existing rights that must be recognized.

CONFORMANCE WITH THE LAND USE PLAN AND CONSISTENCY WITH OTHER LAWS

Land Use Plan

The proposed action is in conformance with the objectives and recommendations of the Price River Resource Area Management Framework Plan approved in 1983, as amended.

Consistency with Existing Laws

This decision is consistent with Federal, state, and local laws imposed for the protection of the environment. Specifically:

National Environmental Policy Act
Federal Land Policy and Management Act
Endangered Species Act
Surface Mining Control and Reclamation Act
Clean Water Act
National Historic and Preservation Act
Migratory Bird Treaty Act
Bald Eagle Protection Act

IMPLEMENTATION AND APPEAL RIGHTS

Implementation may begin upon approval of the mine plan for the project. The rights granted through the right-of-way become effective immediately following approval of the right-of-way.

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. The appellant has the burden of showing that the decision appealed from is in error.

Tom Rasmussen, Acting Field Manager

Date

Enclosure:
Form 1842-1