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DIV. OF OIL, GAS & MINING

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
PRICE FIELD OFFICE
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Incoming
C/007/0013
CC: ~~Wayne H~~ SU

Figure 1

TO: Attention: Wayne Hedberg

Company/Agency: UDOGM

Destination Fax Number: (801) 359-3940

FROM THE OFFICE OF: Mark Mackiewicz, PMP, Project Manager

SUBJECT: Decision Record for Lila Canyon

DATE AND TIME: September 13, 2005 5:00 pm

NUMBER OF PAGES, INCLUDING THIS COVER SHEET: 9

COMMENTS: Sorry about the delay in getting this to you.

Thanks!

Mark

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). OSM is a cooperating agency in this environmental assessment; and therefore 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 Untied 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.

Thomas E. Rasmussen (Acting) 10/27/00
Tom Rasmussen, Acting Field Manager Date

Enclosure:
Form 1842-1

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.

Thomas E Rasmussen (Acting) 10/27/00

Tom Rasmussen., Acting Field Manager Date