



State of Utah

Department of Natural Resources

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August 17, 2005

Henry Maddux, Field Supervisor
U. S. Fish and Wildlife Service
2369 West Orton Circle
West Valley City, Utah 84119

Subject: USFWS 1996 Biological Opinion Coordinated Review on Lila Canyon Extension, UtahAmerican Energy Inc., Horse Canyon Mine, C/007/0013, #2275, Outgoing File

Dear Mr. Maddux:

Thank you for providing us with the listing of threatened, endangered, and candidate species for Emery County on September 9, 2004. The Division of Oil, Gas and Mining is currently reviewing the Horse Canyon Mine – Lila Canyon expansion project for the UtahAmerican Energy Company. The proposed expansion area is 5,992.07 acres with 40.77 acres of surface disturbance for the facilities site. Subsidence caused from undermining operations would also cause surface disturbances.

The Lila Canyon expansion project is in Emery County, Utah. The 7.5 Minute Quadrangle maps that cover the permit area are Cedar and Lila Point (Geological Survey of the U.S. Department of the Interior) - T16S R14E Sections 10, 11, 12, 15, 14, 13, 22, 23, 24, 26, and 25, and in T16S R15E Sections 19 and 30. The acreage and section numbers do not include transportation or power line corridors.

The Division, acting through the authority of the Office of Surface Mining (DOI), is initiating an informal consultation for the permitting of this application. The USFWS may recall that the Division initiated communications with the USFWS on May 9, 2002 on this same project. However, because the Permittee submitted a new application with more current surveys, we are re-initiating communications with the USFWS. The Division requests concurrence from the USFWS with our determination of “no effect” for the Lila Canyon project. The following paragraphs may provide pertinent information that may be useful during this informal consultation process.

TE Species

The proposed plan (MRP) includes a list of TE species for Emery County issued from the USFWS in 2003. This list includes Barneby reed-mustard, Jones cycladenia, last chance townsendia, Maguire daisy, San Rafael cactus, Winkler cactus, Wright fishhook cactus, bonytail chub, Colorado pikeminnow, humpback chub, razorback sucker, Mexican spotted owl (MSO), black-footed ferret, bald eagle, and western yellow-billed cuckoo.

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Although not on the 2003 list, the MRP provides discussion on the southwestern willow flycatcher (now listed on the USFWS 2004 list).

The supporting documents in the MRP show there have been no observations of TE plant or animal species, but there may be suitable habitat for certain species. The MRPs supporting documents include the following: Plant and Animal Inventory, EIS May 1999, April 2002, May 2002; BA of 1999 Inventory, EIS August 2000; Plant Inventory, Division September 2002; Mexican Spotted Owl Final Report, Willey 2002.

The 2000 EIS Biological Assessment showed that there may be suitable habitat for San Rafael cactus, Winkler cactus, and Wright fishhook cactus. The Utah Heritage Program (DWR), however, supports that there have been no observations and there is no suitable habitat for this species within the permit area (Ben Franklin, June 2004).

There is also suitable habitat for the bald eagle, black-footed ferret, and MSO. The DWR overflight surveys have not shown bald eagle nests within or adjacent to the permit area. This species may use the area during the winter months, but the area is not considered critical habitat even as wintering range (DWR 8/16/05). For the black-footed ferret, there have been no confirmed sightings within or adjacent to the project area.

For the MSO, the Permittee will conduct MSO calling surveys two years prior to reaching potential MSO habitat. The Permittee will survey areas with the following description: 1) areas identified by the 2000 model and supported by the Willey flyover results and 2) areas classified as subsidence zones.

Sensitive and Other Species of Concern

The MRP supporting TE documents also provide survey results for the following fourteen sensitive species: tufted cryptantha, creutzfeldt-flower, canyon sweetvetch, low hymenoxys, helenium hymenoxys, Bicknell milkvetch, basalt milkvetch, sedge fescue, Mussentuchit gilia, entrada rushpink, Book Cliff's blazing star, Jones indigo-bush, psoralea globemallow, and Thompson talinum. The results were positive for Cliff's blazing star, canyon sweetvetch, and creutzfeldt-flower. The 2004 vegetation survey (King), however, did not show observations for these three species within the proposed facilities site. The Permittee will survey these species at least the year construction begins or one year prior to construction. If the results are positive for these species, the Permittee will immediately submit and implement a protection/mitigation plan prior to disturbance.

There are five Golden eagle nests within the 0.5-mile (2640') buffer zone for the proposed facility area as well as potential raptor habitat within the subsidence zone. Agencies (USFWS, DWR, and BLM) participating in the EA (UT-070-99-22; 2000) determined that there is a high probability that eagles will abandon all nests near the proposed surface facilities site. The Permittee and BLM will implement a prey base enhancement/mitigation plan following mine plan approval.

To help prevent loss of future nests, the Permittee will conduct first seam mining (pillars remain) and conduct annual raptor surveys. The Permittee will submit a protection/enhancement plan, separate from the EA mitigation plan, if future flyover results

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show nests that could be lost because of subsidence.

To help prevent loss of raptors feeding along the roadways, the Permittee will instruct employees to move road kill to the sides of the road and contact DWR when road kills are reported.

The Permittee provided the mass balance equation-parameters and total expected water loss from mining operations as 70.63 acre-feet. This volume of water is below the 100-acre foot guideline that initiates mitigation.

The USFWS commented that there should be an evaluation of the effects on the Colorado pikeminnow (squawfish) from a water discharge line to the Price River. This discharge line was apparently proposed earlier in the planning process for the mine, but it is no longer planned.

There was a concern that discharged mine water could increase in salinity as it flows through the Mancos Shale before draining into the Price River. The USFWS stated that selenium deposition from this proposed mining operation is a concern, but not salinity. The Permittee's modeling, along with Division calculations, shows that mine discharge will not reach the Price River.

The Division considers that the project will have "no effect" on TE species or critical habitat. Final decision concerning TE species and the proposed project will come after the Division receives a response from USFWS.

The Permittee plans to start construction sometime before the end of this year. We would appreciate your response by September 19, 2005 so we may proceed with the review process. If you have any questions about this project, please call me at (801) 538-5268 or Jerriann Ernstsens at (801) 538-5214.

Sincerely,

Pamela Grubaugh-Littig
Permit Supervisor

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