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DIVISION OF WILDLIFE RESOURCES

EQUAL OPPORTUNITY EMPLOYER

1596 West North Temple/Salt Lake City, Utah 84116/801-533-9333



DOUGLAS F. DAY
Director

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July 9, 1981

DIVISION OF
OIL, GAS & MINING

Mr. Cleon B. Feight, Director
Division of Oil, Gas and Mining
1588 West North Temple
Salt Lake City, Utah 84116

Dear Cleon:

The Division has reviewed the Mining and Reclamation Plans (MRP) for Beaver Creek Coal Company's 2, 3, 6 and 4 Mining Projects. Review comments are enclosed for each specific mining project. It seems that the applicant has and continues to conduct unwarranted field study of the vertebrate wildlife resource. This activity is distressing since it represents an avoidable, negative impact on the wildlife resource and is contrary to the performance standards of UMC 817.97.

Thank you for an opportunity to review each MRP and provide comment.

Sincerely,

Douglas F. Day
Director

Enclosures

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DIVISION OF
OIL, GAS & MINING

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UTAH DIVISION OF WILDLIFE RESOURCES'S REVIEW COMMENTS ON THE MINING AND RECLAMATION PLAN (MRP) FOR BEAVER CREEK COAL COMPANY'S GORDON CREEK NO. 2 MINE PROJECT

Volume I

Page 3-23, 3.4.1 - The seed mixture to be used in reclamation that will return the area to suitable wildlife habitat should include forbs as well as grasses and shrubs.

Page 3-30, 3.4.5 and 3-57, 3.5.2 - This seed mixture only contains one forb (yellow sweetclover). The mine plan area represents summer range for mule deer. During summer the deer's diet is mostly of forbs. If the performance standards are to be met a larger representation of forbs in the seed mixture must be made.

The mixture does not specify pure live seed for forbs or browse species. The applicant should indicate just what specification of seed will be used.

Page 3-35, 3.4.6.1 - It is agreed that the physical loss of 9.18 acres of wildlife habitat is not of significance. However, the applicant fails to address the acreage that has become unacceptable to use by wildlife due to disturbance associated with the project.

Page 3-36, 3.4.6.1 - The applicant should identify who conducted the raptor hazard survey. Such a determination must be made by a Qualified wildlife biologist from a regulatory agency or management agency.

Page 3-37, 3.4.6.2 - Legal hunting activities are not viewed as having a significant negative impact to wildlife. Thus for the Company to preclude hunting on the mine plan area cannot be viewed as a mitigation technique. The Company may wish to control trespass in order to safeguard surface facilities; this does not necessarily improve conditions for wildlife.

The MRP must identify who will instruct their employees. The Division of Wildlife Resources has offered the Company this service. In any event such an employee awareness program must be approved by the Division if it is to be accepted as mitigation. If such a program is to be successful it must be presented by trained personnel in such a manner that laymen understand and retain the principles being presented.

Page 3-39, 3.4.6.3 - Besides the two monitoring programs identified in the MRP, what other monitoring will be accomplished? Who will the results of monitoring be reported to and at what frequency will reports be provided? Note, this MRP make reference to Mill Fork. To the Division's knowledge, there is no Mill Fork associated with the No. 2 mine.

Page 3-59, 3.5.5.4 - If the applicant intends to use fence to preclude wildlife use of various areas the design specifications must be included in the MRP. Such a fence must be of such a character and height that big game will not attempt to pass and become entangled.

(Two rolls of net--one 48" and one 36"--and two strands of barbed wire on top of the net spaced 8" apart.)

Page 4-2, 4.4.1 - The redirected use of water in both Carbon and Emery Counties from traditional agricultural use to industrial and municipal uses due to growth associated with the energy industry has significantly impacted the agrarian community. Additionally, significant acreages of agricultural lands and associated wetlands have been dewatered due to redirected use of water. These habitat types were of critical value to many wildlife species.

The statement in paragraph 1 of 4.4.1 represent only the applicant's opinion and not the opinion of professional land managers local to Carbon and Emery Counties.

Page 4-3, 4.4.1 (Recreation) - If the applicant must discuss the management of mule deer in the MRP, then the statements presented need be adjusted to portray current conditions and management philosophy.

The MRP states that there are 40 varieties of fish in the region. This statement is erroneous. Southeastern Utah is inhabited by 38 species of fish. The biogeographic area that surrounds the mine plan area is only inhabited by 14 species of fish and the mine plan area itself is inhabited by 4 species of fish. This information was provided to the applicant on February 6, 1981. There seems no point in the MRP listing species of fish pursued on regional basis for recreation. But, if it is desirable the applicant has failed to identify any warm water species (Lake Powell lies within the region and provides one of the best warm water fisheries in the Nation.)

Page 4-4, 4.4.1 - The MRP fails to identify non-consumptive, recreational uses of the areas wildlife resource.

Page 4-4, 4.4.2 - The mine plan area is utilized for many other hunting activities other than deer hunting.

Page 4-5, 4.4.3 - Displacement of wildlife due to the mining activity is not limited mainly to mule deer.

Page 4-6, 4.5 - The premining land use provided habitat for a myriad of wildlife and not just mule deer.

Volume II

Section 10, pages 10-1 through 10-42 - Utah Division of Wildlife Resources (DWR) on February 6, 1981 provided the applicant with a detailed assessment of the vertebrate wildlife resource associated with the region, biogeographic area surrounding the mine plan area and the mine plan area. This assessment identified for each specie its status and relative abundance, population trend and preferred habitat use area. It identified the season of use for avifauna. The assessment also provided the needed narrative relative to habitats for those species that are of high interest so that an adequate mitigation plan could be developed.

Utah Division of Oil, Gas and Mining (OGM) through an appropriate consultation process provided the applicant on July 15, 1980 guidelines

for acquisition of fish, wildlife and habitat information. DWR's February 6, 1981 assessment adequately met most of the applicant's needs relative to fish and wildlife information. The applicant needed only to collect information from field work on the vegetation characteristics of habitats, the location of raptor nests proximal to planned surface disturbed areas and survey for high-priority habitats of avifauna that have high federal interest.

Field studies relative to wildlife beyond those described above as needed by the applicant can only represent unneeded impacts on the resource. Such unwarranted impacts are contrary to the performance standards of UMC 817.97. It is important to note that the determination of density (not a required parameter in the guidelines issued by OGM) for any vertebrate specie does not assist the applicant in development of a mitigation plan.

The MRP at this point in time should contain significant fish, wildlife and habitat information. The only information that should be lacking is the small amount described earlier as needed by the applicant.

In reference to Tables 10-1, 10-2 and 10-3 - The term status of an animal as used in Utah is either protected or nonprotected and not the terminology presented in the MRP. Utah Division of Wildlife Resources as the State's wildlife authority has already determined which species of vertebrate wildlife inhabit the mine plan area. The applicant's opinion (likely or potential) regarding inhabitation of the mine plan area by any species does not represent the official determination by the State of Utah.