



IN REPLY REFER TO:

# United States Department of the Interior

## OFFICE OF SURFACE MINING

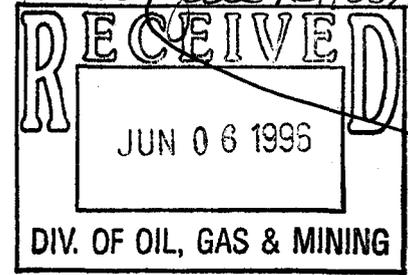
Reclamation and Enforcement  
1999 Broadway, Suite 3320  
Denver, Colorado 80202-5733

May 31, 1996

UT-0071

*Route to Susan Paul  
then file #UT/007/038*

Ben Grimes, Sr.  
Staff Project Engineer, Willow Creek Mine  
Cyprus Plateau Mining Corporation  
P.O. Drawer PMC  
Price, UT 84501



Dear Mr. Grimes:

The U.S. Fish and Wildlife Service (Service) has provided OSM with a list of endangered and threatened species that may occur in the area of influence of the Willow Creek Mine. A copy of their letter dated May 7, 1996, is enclosed here.

On the second page of the letter the Service described their policy with respect to water depletion. OSM is reviewing the permit application package (PAP) for the preparation of a mining plan approval document. Section 4.3.2.2 Potential Effects on Aquatic and Riparian Resources, of the PAP projects that annual depletion of 730 acre-feet would be caused by the coal mining operations of the Willow Creek Mine.

The Service has determined that the project depletion impacts to the Upper Colorado River endangered fishes can be offset by a one-time contribution to the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin. The contribution has been calculated by multiplying the project's average annual water depletion (730 acre-feet) by \$12.34, for a total charge of \$9,008.20.

In order for OSM to continue Section 7 consultation with the Service for the preparation of the mining plan approval document, OSM and the Service need a letter of commitment from the Cyprus Plateau Mining Corporation to make a one-time payment of the above calculated amount to the Recovery Program prior to beginning coal mining operations in the mining plan area of proposed Federal leases SL-046652, SL-048442-050115, U-0146345, and U-0148779 associated with the permit. At a later date, OSM would provide you with the address and other relevant information for making the actual payment to the Recovery Program.

Please send the letter of commitment to this office at the above address with a copy to the Service in Salt Lake City, Utah by June 15, 1996 to assure a timely action on the mining plan approval document.

You may contact the Service should you have any questions about the payment to the Recovery Program.

Sincerely,

*Ranvir Singh*

Ranvir Singh, P.E.  
Program Support Division

Enclosure

Copy to Robert D. Williams



United States Department of the Interior

FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE  
LINCOLN PLAZA  
145 EAST 1300 SOUTH, SUITE 404  
SALT LAKE CITY, UTAH 84115

In Reply Refer To  
(CO/KS/NE/UT)

May 7, 1996

Gregory K. Reed  
Office of Surface Mining  
US Department of the Interior  
1999 Broadway, Suite 3320  
Denver CO 80202-5733

RE: Proposed Willow Creek Mine

Dear Mr. Gregory:

We have received your request for a list of endangered and threatened species that may occur in the area of influence of your proposed action. Enclosed are lists of threatened, endangered, and candidate species by county. While candidate species have no legal protection under the Endangered Species Act, we ask that you try to avoid them if they are found in the area.

Only a Federal Agency can enter into formal section 7 consultation with the Service. A Federal Agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such a designation. The ultimate responsibility for compliance with section 7 remains with the Federal Agency.

The proposed action should be reviewed and a determination made if the action may affect any listed species or their critical habitat. A determination also should be made if the action is likely to jeopardize a proposed species or result in the destruction or adverse modification of any proposed critical habitat. If the determination is "may affect" for listed species, formal section 7 consultation should be requested by the Federal Agency to the Assistant Field Supervisor at the address given above. In addition, if a determination is made that the proposed action may jeopardize proposed species or result in the destruction or adverse modification of proposed critical habitat, the Federal Agency must confer with this office. At that time, the Federal Agency should provide this office with a copy of a biological assessment or any other relevant information that was used in reaching its conclusion.

Your attention is also directed to Section 7(d) of the Endangered Species Act, as amended, which underscores the requirement that the Federal agency or the applicant shall not make any irreversible or irretrievable commitment of resources during the consultation period

which, in effect, would deny the formulation or implementation of reasonable and prudent alternatives regarding their actions on any endangered or threatened species.

Water depletions in the Upper Basin have been recognized as a major source of impact to endangered fish species. Continued water withdrawal has restricted the ability of the Colorado River system to produce flow conditions required by various life stages of the fishes.

#### Water Depletions Greater Than 100 Acre-feet

The Service has determined that project depletion impacts, which the Service has consistently maintained are likely to jeopardize the listed fishes, can be offset by (a) the water project proponent's one-time contribution to the Recovery Program in the amount of \$12.34 per acre-foot of the project's average annual depletion, (b) appropriate legal protection of instream flows pursuant to State law, and (c) accomplishment of activities necessary to recover the endangered fishes as specified under the Recovery Implementation Program Recovery Action Plan (Plan). The Service believes it is essential that protection of instream flows proceed expeditiously, before significant additional water depletions occur.

#### Water Depletions Less Than 100 Acre-feet

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.

If we can be of further assistance, please feel free to contact our office at (801) 524-5001.

Sincerely,



for Robert D. Williams  
Assistant Field Supervisor

Enclosures

FEDERALLY LISTED AND PROPOSED (P) ENDANGERED (E) AND  
 THREATENED (T) SPECIES AND HABITAT IN UTAH BY COUNTY  
 As of April 1996

| COUNTY           | Species                          | Scientific Name                                  | Status |
|------------------|----------------------------------|--|--------|
| <b>BEAVER</b>    |                                  |  |        |
|                  | Bald Eagle <sup>3</sup>          | <i>Haliaeetus leucocephalus</i>                  | T      |
|                  | Peregrine Falcon <sup>1</sup>    | <i>Falco peregrinus</i>                          | E      |
|                  | Utah Prairie Dog                 | <i>Cynomys parvidens</i>                         | T      |
| <b>BOX ELDER</b> |                                  |  |        |
|                  | Bald Eagle <sup>3</sup>          | <i>Haliaeetus leucocephalus</i>                  | T      |
|                  | Peregrine Falcon <sup>1</sup>    | <i>Falco peregrinus</i>                          | E      |
|                  | Lahontan Cutthroat Trout         | <i>Oncorhynchus (=Salmo) clarki<br/>henshawi</i> | T      |
| <b>CACHE</b>     |                                  |  |        |
|                  | Bald Eagle <sup>3</sup>          | <i>Haliaeetus leucocephalus</i>                  | T      |
|                  | Maguire Primrose                 | <i>Primula maguirei</i>                          | E      |
|                  | Peregrine Falcon <sup>1</sup>    | <i>Falco peregrinus</i>                          | T      |
| <b>CARBON</b>    |                                  |  |        |
|                  | Bald Eagle <sup>3</sup>          | <i>Haliaeetus leucocephalus</i>                  | T      |
|                  | Black-footed Ferret <sup>6</sup> | <i>Mustela nigripes</i>                          | E      |
|                  | Bonytail Chub <sup>4</sup>       | <i>Gila elegans</i>                              | E      |
|                  | Colorado Squawfish <sup>4</sup>  | <i>Ptychocheilus lucius</i>                      | E      |
|                  | Humpback Chub <sup>4</sup>       | <i>Gila cypha</i>                                | E      |
|                  | Peregrine Falcon <sup>1</sup>    | <i>Falco peregrinus</i>                          | E      |
|                  | Razorback Sucker <sup>4</sup>    | <i>Xyrauchen texanus</i>                         | E      |
| <b>DAGGETT</b>   |                                  |  |        |
|                  | Bald Eagle <sup>3</sup>          | <i>Haliaeetus leucocephalus</i>                  | T      |
|                  | Black-footed Ferret <sup>6</sup> | <i>Mustela nigripes</i>                          | E      |
|                  | Bonytail Chub <sup>4</sup>       | <i>Gila elegans</i>                              | E      |
|                  | Colorado Squawfish <sup>4</sup>  | <i>Ptychocheilus lucius</i>                      | E      |
|                  | Humpback Chub <sup>4</sup>       | <i>Gila cypha</i>                                | E      |
|                  | Peregrine Falcon <sup>1</sup>    | <i>Falco peregrinus</i>                          | E      |
|                  | Razorback Sucker <sup>4</sup>    | <i>Xyrauchen texanus</i>                         | E      |
|                  | Ute Ladies'-tresses              | <i>Spiranthes diluvialis</i>                     | T      |
|                  | Whooping Crane <sup>2</sup>      | <i>Grus americanus</i>                           | E      |
| <b>DAVIS</b>     |                                  |  |        |
|                  | Bald Eagle <sup>3</sup>          | <i>Haliaeetus leucocephalus</i>                  | T      |
|                  | Peregrine Falcon <sup>1</sup>    | <i>Falco peregrinus</i>                          | E      |

FEDERALLY LISTED AND PROPOSED (P) ENDANGERED (E) AND  
 THREATENED (T) SPECIES AND HABITAT IN UTAH BY COUNTY  
 As of April 1996

| COUNTY       | Species                                     | Scientific Name                        | Status |
|--------------|---|--|--------|
|              | Southwestern Willow Flycatcher              | <i>Empidonax traillii extimus</i>      | E      |
|              | Utah Prairie Dog                            | <i>Cynomys parvidens</i>               | T      |
|              | Ute Ladies'-tresses                         | <i>Spiranthes diluvialis</i>           | T      |
| <b>GRAND</b> |   |  |        |
|              | Bald Eagle <sup>1</sup>                     | <i>Haliaeetus leucocephalus</i>        | T      |
|              | Black-footed Ferret <sup>6</sup>            | <i>Mustela nigripes</i>                | E      |
|              | Bonytail Chub <sup>4</sup>                  | <i>Gila elegans</i>                    | E      |
|              | Colorado Squawfish <sup>4</sup>             | <i>Ptychocheilus lucius</i>            | E      |
|              | Humpback Chub <sup>4</sup>                  | <i>Gila cypha</i>                      | E      |
|              | Jones Cycladenia                            | <i>Cycladenia humilis var. jonesii</i> | T      |
|              | Mexican Spotted Owl <sup>1</sup>            | <i>Strix occidentalis lucida</i>       | T      |
|              | Peregrine Falcon <sup>1</sup>               | <i>Falco peregrinus</i>                | E      |
|              | Razorback Sucker <sup>4</sup>               | <i>Xyrauchen texanus</i>               | E      |
|              | Whooping Crane <sup>2</sup>                 | <i>Grus americanus</i>                 | E      |
| <b>IRON</b>  |   |  |        |
|              | Bald Eagle <sup>3</sup>                     | <i>Haliaeetus leucocephalus</i>        | T      |
|              | Mexican Spotted Owl <sup>1</sup>            | <i>Strix occidentalis lucida</i>       | T      |
|              | Peregrine Falcon <sup>1</sup>               | <i>Falco peregrinus</i>                | E      |
|              | Utah Prairie Dog                            | <i>Cynomys parvidens</i>               | T      |
| <b>JUAB</b>  |   |  |        |
|              | Bald Eagle <sup>3</sup>                     | <i>Haliaeetus leucocephalus</i>        | T      |
|              | Least Chub                                  | <i>lotichthys plegethontis</i>         | PE     |
|              | Peregrine Falcon <sup>1</sup>               | <i>Falco peregrinus</i>                | E      |
|              | Ute Ladies'-tresses                         | <i>Spiranthes diluvialis</i>           | T      |
| <b>KANE</b>  |   |  |        |
|              | Bald Eagle <sup>3</sup>                     | <i>Haliaeetus leucocephalus</i>        | T      |
|              | Jones Cycladenia                            | <i>Cycladenia humilis var. jonesii</i> | T      |
|              | Kanab Ambersnail <sup>5</sup>               | <i>Oxyloma haydeni kanabensis</i>      | E      |
|              | Kodachrome Bladderpod                       | <i>Lesquerella tumulosa</i>            | E      |
|              | Mexican Spotted Owl <sup>1</sup>            | <i>Strix occidentalis lucida</i>       | T      |
|              | Peregrine Falcon <sup>1</sup>               | <i>Falco peregrinus</i>                | E      |
|              | Siler Pincushion Cactus                     | <i>Pediocactus sileri</i>              | T      |
|              | Southwestern Willow Flycatcher <sup>6</sup> | <i>Empidonax traillii extimus</i>      | E      |
|              | Welsh's Milkweed <sup>4</sup>               | <i>Asclepias welshii</i>               | T      |

FEDERALLY LISTED AND PROPOSED (P) ENDANGERED (E) AND  
 THREATENED (T) SPECIES AND HABITAT IN UTAH BY COUNTY  
 As of April 1996

| COUNTY        | Species                           | Scientific Name                    | Status |
|---------------|-----------------------------------|------------------------------------|--------|
| <b>SEVIER</b> |                                   |                                    |        |
|               | Bald Eagle <sup>3</sup>           | <i>Haliaeetus leucocephalus</i>    | T      |
|               | Heliotrope Milkvetch <sup>4</sup> | <i>Astragalus montii</i>           | T      |
|               | Last Chance Townsendia            | <i>Townsendia aprica</i>           | T      |
|               | Peregrine Falcon <sup>1</sup>     | <i>Falco peregrinus</i>            | E      |
|               | Utah Prairie Dog                  | <i>Cynomys parvidens</i>           | T      |
| <b>SUMMIT</b> |                                   |                                    |        |
|               | Bald Eagle <sup>3</sup>           | <i>Haliaeetus leucocephalus</i>    | T      |
|               | Black-footed Ferret <sup>6</sup>  | <i>Mustela nigripes</i>            | E      |
|               | Peregrine Falcon <sup>1</sup>     | <i>Falco peregrinus</i>            | E      |
|               | Whooping Crane <sup>2</sup>       | <i>Grus americanus</i>             | E      |
| <b>TOOELE</b> |                                   |                                    |        |
|               | Bald Eagle <sup>3</sup>           | <i>Haliaeetus leucocephalus</i>    | T      |
|               | Least Chub                        | <i>lotichthys plegethontis</i>     | PE     |
|               | Peregrine Falcon <sup>1</sup>     | <i>Falco peregrinus</i>            | E      |
|               | Ute Ladies'-tresses               | <i>Spiranthes diluvialis</i>       | T      |
| <b>UINTAH</b> |                                   |                                    |        |
|               | Bald Eagle <sup>3</sup>           | <i>Haliaeetus leucocephalus</i>    | T      |
|               | Black-footed Ferret <sup>6</sup>  | <i>Mustela nigripes</i>            | E      |
|               | Bonytail Chub <sup>4</sup>        | <i>Gila elegans</i>                | E      |
|               | Clay Reed-mustard                 | <i>Schoenocrambe argillacea</i>    | T      |
|               | Colorado Squawfish <sup>4</sup>   | <i>Ptychocheilus lucius</i>        | E      |
|               | Humpback Chub <sup>4</sup>        | <i>Gila cypha</i>                  | E      |
|               | Mexican Spotted Owl <sup>6</sup>  | <i>Strix occidentalis lucida</i>   | T      |
|               | Peregrine Falcon <sup>1</sup>     | <i>Falco peregrinus</i>            | E      |
|               | Razorback Sucker <sup>4</sup>     | <i>Xyrauchen texanus</i>           | E      |
|               | Shrubby Reed-mustard              | <i>Schoenocrambe suffrutescens</i> | E      |
|               | Uinta Basin Hookless Cactus       | <i>Sclerocactus glaucus</i>        | T      |
|               | Ute Ladies'-tresses               | <i>Spiranthes diluvialis</i>       | T      |
|               | Whooping Crane <sup>2</sup>       | <i>Grus americanus</i>             | E      |

FEDERALLY LISTED AND PROPOSED (P) ENDANGERED (E) AND  
 THREATENED (T) SPECIES AND HABITAT IN UTAH BY COUNTY  
 As of April 1996

| COUNTY | Species                       | Scientific Name                 | Status |
|--------|-------------------------------|---------------------------------|--------|
| WEBER  | Bald Eagle <sup>3</sup>       | <i>Haliaeetus leucocephalus</i> | T      |
|        | Peregrine Falcon <sup>1</sup> | <i>Falco peregrinus</i>         | E      |
|        | Ute Ladies'-tresses           | <i>Spiranthes diluvialis</i>    | T      |

<sup>1</sup>Nests in this county of Utah.

<sup>2</sup>Migrates through Utah, no resident populations.

<sup>3</sup>Wintering populations (only three known nesting pairs in southeastern Utah).

<sup>4</sup>Critical habitat designated in this county.

<sup>5</sup>Critical habitat proposed in this county.

<sup>6</sup>Historical range.

<sup>7</sup>Proposed downlisting to threatened.

For additional information contact: U.S. Fish and Wildlife Service, 145 East 1300 South Suite 404, Salt Lake City, Utah 84115 Telephone: (801) 524-5001

# UTAH CANDIDATE SPECIES BY COUNTY

Updated: April, 1996  
 Taken From Notice of Review Published in the Federal Register  
 61 FR 7596 (February 28, 1996)

| COUNTY           | Common Name                            | Scientific Name                  | Category |
|------------------|--|----------------------------------|----------|
| <b>BEAVER</b>    |  |                                  |          |
|                  | <u>Animals</u><br>Spotted Frog         | <i>Rana pretiosa</i>             | C1       |
| <b>BOX ELDER</b> |  |                                  |          |
|                  | <u>Animals</u><br>Fat-whorled Pondsail | <i>Stagnicola bonnevillensis</i> | C1       |
|                  | Mountain Plover                        | <i>Charadrius montanus</i>       | C1       |
| <b>CACHE</b>     |  |                                  |          |
|                  | no category 1 candidate species        |                                  |          |
| <b>CARBON</b>    |  |                                  |          |
|                  | <u>Plants</u><br>Graham Beardtongue    | <i>Penstemon grahamii</i>        | C1       |
| <b>DAGGETT</b>   |  |                                  |          |
|                  | <u>Animals</u><br>Mountain Plover      | <i>Charadrius montanus</i>       | C1       |
| <b>DAVIS</b>     |  |                                  |          |
|                  | <u>Animals</u><br>Mountain Plover      | <i>Charadrius montanus</i>       | C1       |
| <b>DUCHESNE</b>  |  |                                  |          |
|                  | <u>Animals</u><br>Mountain Plover      | <i>Charadrius montanus</i>       | C1       |
|                  | Pariette Cactus                        | <i>Sclerocactus brevispinus</i>  | C1       |
|                  | <u>Plants</u><br>Graham Beardtongue    | <i>Penstemon grahamii</i>        | C1       |
| <b>EMERY</b>     |  |                                  |          |
|                  | no category 1 candidate species        |                                  |          |
| <b>GARFIELD</b>  |  |                                  |          |
|                  | <u>Plants</u><br>Aquarius Paintbrush   | <i>Castilleja aquariensis</i>    | C1       |