



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)

November 30, 1999

ACT/007/039 #2  
Copy Daron,  
RECEIVED Pam

DEC - 6 1999

DIVISION OF OIL, GAS & MINING

Daron R. Haddock  
Permit Supervisor  
Utah Division of Oil, Gas, and Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, UT 84115

RE: Proposal to add a Federal Lease, Canyon Fuel Company, Dugout Canyon Mine,  
ACT/007/039-SR99A, Folder #2, Carbon County, Utah

Dear Mr. Haddock:

The U.S. Fish and Wildlife Service (Service) has reviewed the Proposal to add a Federal Lease, Canyon Fuel Company, Dugout Canyon Mine, ACT/007/039-SR99A, Folder #2, Carbon County, Utah and offers the following comments for your consideration.

*Raptors*

We commend you for requiring the applicant to modify their mining and reclamation plan to include monitoring, protection and mitigation plans for this nest. For further assistance with raptor mitigation efforts, we recommend use of the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* which were developed in part to provide consistent application of raptor protection measures statewide and provide full compliance with environmental laws regarding raptor protection. A copy can be obtained from the Utah Field Office at Lincoln Plaza, 145 East 1300 South, Suite 404, Salt Lake City, UT 84115. Raptor surveys and mitigation measures are provided in the Raptor Guidelines as recommendations to ensure that proposed projects will avoid adverse impacts to raptors.

*Water Depletions*

If your proposed action should affect any water bodies in the Colorado River drainage in Utah (including all tributaries), it is important that you include a description of water crossings, existing water distribution, water sources, any existing or new water depletions and the net change in depletions in your biological assessment or environmental document regarding endangered species impacts.

Any depletion from the Colorado River basin is considered to jeopardize the continued existence or adversely modify the critical habitat of the four Colorado River endangered fish species. However, depletions are addressed by existing inter-agency Section 7 agreements. In 1988, the Department of the Interior, the states of Wyoming, Colorado and Utah and the Western Area Power Administration established the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin (RIP). The purpose of the RIP is to recover listed species while providing for new water development in the Upper Colorado River Basin. Through the RIP, agencies developed an encompassing Section 7 agreement on all *historic* and *new* depletions in the Upper Colorado River Basin. In accordance with the RIP, the Service assesses impacts of projects that require section 7 consultation and determines how the RIP will serve as a reasonable and prudent alternative.

Depletions are categorized as 1) historic depletions, 2) new depletions less than 100 acre-feet, 3) new depletions less than 3000 acre-feet and 4) new depletions of 3000 acre-feet and greater. For historic depletions, the RIP activities serve as the reasonable and prudent alternative, and no additional requirements exist other than providing the depletion amount. For new depletions less than 100 acre-feet, an intra-service agreement based on basin-wide cumulative depletions precludes the need for a depletion charge and the RIP recovery activities are considered to offset depletion impacts. For new depletions from 100 to 3000 acre-feet annually, a one-time depletion charge (\$14.36/acre-foot for FY2000) is paid by the project proponent to the RIP to offset depletion impacts. For new depletions greater than 3000 acre-feet annually, the depletion charge is paid and additional items may be required to offset depletion impacts. It is important to note that the Service is required to consult on and keep track of all depletions, historic or new, of any magnitude. Therefore, a biological assessment or environmental document should describe all depletions, historic or new, large or small.

The Service will inform the action agency which of the necessary requirements will offset depletion impacts upon evaluation of the water distribution and depletions described in the agency's biological assessment or environmental document. Thus, if water use continues at the current rate of 46.5 acre-feet annually, we foresee no new environmental impacts.

Thank you for the opportunity to provide comments. If we can be of further assistance, please contact Scott Gamo, Fish and Wildlife Biologist, of this office at (801) 524-5001 ext 134.

Sincerely,



 Reed E. Harris  
Utah Field Supervisor

cc: DWR-Price Office