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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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April 14, 2000

TO: Internal File

THRU: Jim Smith, Team Lead *JDS* *MB*

FROM: Paul Baker, Reclamation Biologist

RE: Proposal to Add a Federal Lease, Canyon Fuel Company LLC, Dugout Canyon Mine, ACT/007/039-SR99D(2)

SUMMARY:

In a proposal received May 21, 1999, and modified August 4, 1999, January 12, 2000, and February 14, 2000, Canyon Fuel Company is proposing to add 2416.14 acres of federal coal lease U-07064-027821 to its permit area. Additional areas would also be added as subsidence buffer zones.

Since no additional surface disturbance is proposed, this analysis does not consider the adequacy of the reclamation plan.

TECHNICAL ANALYSIS:

ADMINISTRATIVE INFORMATION

OWNERSHIP AND CONTROL INFORMATION

Regulatory Reference: R645-301-112

Analysis:

The applicant has proposed changes to the land ownership information to make the text consistent with the maps and to add the owners of land in the areas that would be added to the permit area.

TECHNICAL MEMO

The application would revise the section of the plan discussing interests in contiguous lands. The current plan discusses possible future permitting of the federal coal lease, but this would be eliminated. The application says the applicant does not intend to mine the state coal to the east of the permit boundary (revised boundary) during the current permit term.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

VIOLATION INFORMATION

Regulatory Reference: R645-301-113

Analysis:

The lists of violations received by Canyon Fuel Company's operations has been updated. This information needs to be checked with the applicant violator system.

Findings:

Information provided in the application is adequate to satisfy the requirements of this section of the regulations.

RIGHT OF ENTRY

Regulatory Reference: R645-301-114

Analysis:

The right of entry section includes information about the federal coal lease that is being added to the permit area. This lease was approved in 1957 and readjusted effective January 1, 1997. On July 15, 1997, effective March 1, 1996, this lease was approved as part of the Soldier Creek Logical Mining Unit with Canyon Fuel Company as the unit operator. Most of the surface of the federal coal lease is privately owned.

Part of the proposed addition to the permit area is federal, state, and private land, both surface and mineral, for which the applicant does not have right of entry; however, no coal mining is proposed for these areas. These areas are to be used as subsidence buffer zones.

Findings:

Information provided in the proposal is adequate to satisfy the requirements of this section of the regulations.

UNSUITABILITY CLAIMS

Regulatory Reference: R645-301-115

Analysis:

The applicant is not aware of any unsuitability designation or proposal to designate the area unsuitable for mining. No operations would be conducted within 300 feet of an occupied dwelling, and the current mining and reclamation plan contains approval for mining within 100 feet of a public road.

The proposed addition to the permit area contains a few unimproved roads, mostly on private land. The current mining and reclamation plan contains commitments to repair material damage to these roads to a condition acceptable to both the private land owner and the applicant.

Findings:

Information provided in the proposal is adequate to meet the requirements of this section of the regulations.

PERMIT TERM, INSURANCE, PROOF OF PUBLICATION, AND FACILITIES USED IN COMMON

Regulatory Reference: R645-301-116 and -117

Analysis:

The applicant has submitted a copy of the proof of publication for insertion into Appendix 1-2. This is the only change proposed for this section of the plan.

Findings:

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

TECHNICAL MEMO

ENVIRONMENTAL RESOURCE INFORMATION**HISTORIC AND ARCHAEOLOGICAL RESOURCE INFORMATION**

Regulatory Reference: R645-301-411.140

Analysis:

The application includes no new cultural resources information. The current mining and reclamation plan for the Soldier Canyon Mine contains a 1980 cultural resources inventory that included the proposed addition to the permit area. Not all of the area was examined for cultural resources. Instead, the survey concentrated on those areas where prehistoric or historic activities were most probably concentrated, particularly in the canyons.

The cultural resource survey located one isolated artifact and one historical site. The historical site is the Pace Canyon Mine, and it was determined to not be eligible for listing in the National Register of Historic Places.

The information in the Soldier Canyon plan is adequate and is available to the Division, and the application references the Soldier Canyon plan.

Findings:

Information provided in the proposal is adequate to meet the requirements of this section of the regulations.

VEGETATION INFORMATION

Regulatory Reference: R645-301-321

Analysis:

Vegetation in the proposed addition to the permit area is very similar to that in the current permit area. The applicant has added one new vegetation community designation to Plate 3-1. This community is called deciduous streambank vegetation and limited riparian vegetation. According to the text, heavy grazing and erosion in Pace Creek and Rock Creek Canyons have resulted in sections of the stream banks having little or no deciduous and/or riparian vegetation.

Since the applicant is not proposing additional disturbance, the information in the application and the current plan is acceptable.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: R645-301-322

Analysis:

Wildlife Information

The applicant has revised Plate 3-2 to include the proposed addition to the permit area. This plate shows one eagle nest in the proposed addition, and the plate has been updated to include results from the 1998 raptor survey. Plate 3-2 also shows high priority yearlong elk habitat and critical deer summer range in the new area. High priority winter ranges are to the south of the proposed addition. According to the text, the access roads in Pace Creek and Rock Creek Canyons cross areas used by deer as winter range, but traffic is sporadic during the winter and heavier in the summer and fall.

This section includes updated information about the wildlife habitat mitigation project undertaken near Dugout Creek above the mine. The number of willows planted and to be planted along the creek may be less than the 4000 originally planned because there is a limited amount of appropriate habitat in which to plant the willows.

Threatened and Endangered Species

The existing mining and reclamation plan contains information about threatened, endangered, and sensitive species. According to Section 322.200, no threatened or endangered plant or wildlife species were discovered in recent inventories by Wildlife Resources, the Forest Service, and other qualified personnel. Appendix 3-1 contains a letter from Robert Thompson, Forest Service botanist, indicating the area contains no threatened or endangered plant species.

A June 24, 1995, survey for canyon sweetvetch found this sensitive species along Dugout Creek approximately one-half mile below the gate. The Division is aware of a fairly extensive population in the permit area in Fish Creek Canyon, and it could occur in other parts of the permit area and proposed addition.

Section 322.200 says two listed species, the bald eagle and black-footed ferret, could potentially inhabit the area. There have been no confirmed sightings of black-footed ferrets in Carbon County in several years, but bald eagles probably occur within the permit area during the winter.

TECHNICAL MEMO

Dugout Creek is within the drainage of the Green River , which is habitat for certain threatened and endangered fish of the upper Colorado River basin. Through effects on water quantity and quality, the mine could potentially adversely affect these species.

As required by R645-301-358.100, the permittee must promptly report to the Division any state or federally listed endangered or threatened species within the permit area of which it becomes aware. Seasonal or migrating bald eagles are expected and would not need to be reported.

Findings:

Information provided in the proposal is adequate to meet the requirements of this section of the regulations.

LAND USE RESOURCE INFORMATION

Regulatory Reference: R645-301-411

Analysis:

Plate 4-1 and Exhibit 8 of Appendix 4-2 have been updated to show grazing allotments and logging areas in the proposed addition to the permit area Exhibit 8 shows one area of proposed logging in the Fish Creek area, but it shows no additional timbering in the proposed addition to the permit area.

The application shows the number of livestock allowed in the various federal allotments, but the number varies in some non-federal areas because it is private land.

The applicant proposes no other changes to this section of the mining and reclamation plan. The current plan says there are no cemeteries, public parks, or units of the National System of Trails or the Wild and Scenic Rivers System located within the permit boundary, and it is assumed this statement is still valid for the proposed addition.

Findings:

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION

Regulatory Reference: R645-301-411.141, R645-301-323

Archaeological Site and Cultural Resource Maps

Maps showing cultural resource sites are in the reports discussing these sites. These maps meet regulatory requirements.

Vegetation Reference Area Maps

The reference areas have not been changed, but the map showing the reference areas has been altered to show vegetation communities in the areas proposed to be added to the permit area.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

OPERATION PLAN

PROTECTION OF PUBLIC PARKS AND HISTORIC PLACES

Regulatory Reference: R645-301-140

Analysis:

The proposed addition to the permit area contains no known significant cultural resources, including sites eligible for listing in the National Register of Historic Places, cemeteries, public parks, or units of the National System of Trails and Wild and Scenic Rivers System. Therefore, no protection plan is needed. The Division has received a letter from the State Historic Preservation Office giving clearance based on no surface disturbance and no significant sites being found.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

AIR POLLUTION CONTROL PLAN

Regulatory Reference: R645-301-420

TECHNICAL MEMO

Analysis:

The application includes a statement that, as of January 1, 1999, the Dugout Canyon mine has a permit to operate at a production rate of five million tons annually. A copy of the revised Air Quality Approval Order is included in the application.

Findings:

Information provided in the application is adequate to meet the requirements of this section of the regulations.

SUBSIDENCE

Regulatory Reference: R645-301-332

Analysis:

The current mining and reclamation plan contains a discussion of potential effects of subsidence on wildlife. The application discusses potential effects on perennial and intermittent streams and says flow interruptions are not anticipated. According to the current plan, it has been demonstrated that topographic lows, such as stream channels, tend to be protected by upwarping of adjacent slopes during subsidence. Therefore, mining-induced surface fracturing should be very limited within stream channel areas, and any fracturing that does occur in channels is likely to fill rapidly as a result of sedimentation.

As discussed in the current plan, it is anticipated that no substantial damage will occur to rangelands as a result of subsidence. Most wildlife will be unaffected. Potential effects on raptors are discussed in the "Fish and Wildlife Protection" portion of this review.

Findings:

Information provided in the proposal is adequate to meet the requirements of this section of the regulations.

FISH AND WILDLIFE PROTECTION PLAN

Regulatory Reference: R645-301-333

Analysis:

The current mining and reclamation plan contains monitoring and protection commitments some of which apply to mining in the area proposed to be added. These

commitments include consultation with various agencies and evaluation of mine plans at least nine months before undermining any nests to determine what protection, avoidance or mitigation options are available.

The Fish and Wildlife Service provided a list of proposed and listed threatened, endangered species for the nearby West Ridge Mine. The Division analyzed the potential for each species on this list to be affected by the proposed addition to the permit area, and, except for potential effects to the threatened and endangered fish of the upper Colorado River basin (see discussion below), there should be no effects. Species on the list are:

Graham Beardtongue	Razorback Sucker
Bald Eagle	Humpback Chub
Peregrine Falcon	Colorado Pikeminnow
Black-footed ferret	Bonytail Chub

The peregrine falcon is no longer listed, but it is still protected. Raptor surveys have failed to locate peregrine falcon scrapes in the permit area or the proposed addition although they have been found nearby. Because no scrapes will be subsided and because nearby scrapes are more than one mile away from surface disturbances, there should be no effects.

According to Ben Franklin of the Utah Natural Heritage Program, there is a historical collection of Graham beardtongue from the extreme northeastern corner of Carbon County a few hundred feet from the county line. It is an endemic that occurs almost exclusively on the Green River Formation in Uintah and Duchesne counties. There is virtually no likelihood the mine would affect this species.

There have been no confirmed sightings of black-footed ferrets in Carbon County in several years, so there should be no effect on this species.

Although bald eagles are common winter residents, there are no nests or concentrated roosting sites within either the current permit area or the proposed addition.

Through water use, the mine could adversely affect threatened and endangered fish of the upper Colorado River basin. The Fish and Wildlife Service requires mitigation when annual water use exceeds 100 acre-feet. According to the revised Probable Hydrologic Consequences document, the increased acreage will not result in increased water use, which is currently estimated at 46.5 acre-feet per year. Therefore, no mitigation should be required.

The Division received a letter from the Fish and Wildlife Service dated March 28, 2000, concurring with the Division's findings on threatened and endangered species. Although water depletions are considered to jeopardize the continued existence of the threatened and endangered fish of the upper Colorado River basin, depletions are addressed by existing inter-agency Section 7 agreements. Therefore, no additional action or mitigation is required at this time. If the mine causes additional depletions, it will be necessary to reassess this determination.

TECHNICAL MEMO

Findings:

Information provided in the proposal is adequate to meet the requirements of this section of the regulations.

RECOMMENDATIONS:

The reviewed sections of the application are considered complete and accurate and can be approved.

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