



State of Utah

Department of Natural Resources

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March 3, 2005

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

Subject: USFWS Biological Opinion Coordinated Review for Pace Canyon Fan Portal, Canyon Fuel Company, LLC, Dugout, C/007/0039, #2104, Outgoing File

Dear Mr. Maddux:

The Division of Oil, Gas and Mining is currently reviewing the Pace Canyon Fan Portal project for the Dugout Mine. The plan includes installing a fan portal that would not increase the permit area, but would increase the disturbed area by 2.7 acres in an area that was previously disturbed and never reclaimed.

The Dugout Mine is in Carbon County, Utah. The proposed Pace Canyon project area is in Township 13 South, Range 13 East, Section 30, northwest quarter (Refer to Mount Bartles 7.5 Minute Quadrangle map).

The Division requests concurrence from USFWS with our determination for the Pace fan portal project. The following provides pertinent information that may be useful during the consultation process.

For the Pace fan project, DWR provided an updated TES list and reported that there are no records of occurrence for any TES species in T13 S, R13 E, S17, 19-21, 28-30. They mentioned, however, that there are recent records of occurrence in the vicinity for ferruginous hawk (over 2 miles from area) and historical records of occurrence for Northern goshawk (approximately 4 miles from area).

The MRP's supporting documents show that the permit area supports habitat for the following TES animals: Mexican spotted owl (MSO), black-footed ferret, bald eagle, loggerhead shrike, as well as peregrine falcon. No confirmed sightings of black-footed ferrets have occurred within Carbon County during 1995, 1996, and the first quarter of 1997.

There are many raptor nests within the Dugout properties including golden eagles. There are no known bald eagle nests. There are two golden eagle nest

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approximately 1-mile from the Pace fan project. The Permittee commits to conducting annual raptor surveys to obtain baseline data prior to mining disturbances including subsidence of cliff habitat.

The Permittee conducted a two-year MSO calling survey in 2003 and 2004 that adequately covers the required evaluation for the Pace fan project. The results for both surveys show that there were no MSO observed, but show there were northern saw-whet and great horned owls. The Division does not consider that additional MSO ground-truthing or calling surveys are necessary for the Pace project.

The MRP provides estimates of water consumption from the following sources: culinary, ventilation, coal producing consumption, coal moisture loss, sediment pond evaporation, and dust suppression with an estimated total of 102.53 acre-ft. The estimate for water discharge is 405.63 acre-ft. The estimated overall annual water budget, therefore, is a net gain of 303.1 acre-ft. as of February 2005 that includes the Pace fan project.

The MRP's supporting documents show there have been no observations of TES plant species, however, show that the permit area supports habitat for the following TES plants: canyon sweetvetch (*Hedysarum occidentale* var. *canone*), tufted cryptantha (*Cryptantha caespitosa*), Helenium hymenoxys (*Hymenoxys helenioides*), and Graham beardtongue (*Penstemon deaveri*). The Division is aware of a large population of canyon sweetvetch in Fish Creek Canyon, a population along Dugout Creek, and a population along Pace Creek near the proposed fan facility site.

The Division considers that the project will likely have no adverse affect on TES species or their habitat and the Permittee should receive clearance. Final decision concerning the proposed project will come after the Division receives a response from USFWS.

The Permittee plans to start construction in May 2005. We would appreciate your response by April 6, 2005 so we may proceed with the review process. If we have not heard from your office by the set date, we will consider that USFWS concurs with the Division's findings. If you have any questions about this project, please call me at (801) 538-5268 or Jerriann Ernsten at (801) 538-5214.

Sincerely,

Pamela Grubaugh-Littig
Permit Supervisor

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cc: Price Field Office
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