



State of Utah

Department of Natural Resources

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March 7, 2007

TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor *with journal*

FROM: Jerriann Ernstsens, Ph.D., Environmental Scientist, Biology. *[Signature]*

RE: DOGM's Informal Phone Consultation with USFWS and Decision for Dugout Canyon Mine 40-Acre Extension, Canyon Fuel Company, LLC, Dugout Canyon Mine, C/007/0039, Task ID #2743

DOGM TECHNICAL ANALYSIS SUMMARY:

The Division of Oil, Gas and Mining received the Application for the Dugout Canyon 40 Acre Extension. The proposed extension is located in Carbon County, Utah (7.5 Minute USGS Quadrangle map is Mt. Bartles). The proposed extension is located in T13S R13E NW1/4, Section 21 (SLBM). The Bureau of Land Management is the subsurface owner and a private title-holder is the surface owner. The proposed extension would not include any surface disturbance for facilities.

THREATENED, ENDANGERED, AND SENSITIVE ANIMAL/PLANT SPECIES

The Application meets the requirements of R645-301-322 because the Application or MRP provides applicable and adequate discussion, supporting documentation, and maps on threatened, endangered, and sensitive (TES) species that could occur within or adjacent to the extension area.

The Carbon County TES list includes Graham Beardtongue, Uinta Basin hookless cactus, bonytail chub, Colorado pikeminnow, humpback chub, razorback sucker, Mexican spotted owl (MSO), black-footed ferret, bald eagle, and western yellow-billed cuckoo (candidate).

All supporting surveys (MRP) on TES plant and animal species show that there were no observations of threatened or endangered species in the areas surveyed.

DWR and Dr. Patrick Collins (Mt. Nebo Scientific) support that it is unlikely that there are animal or plant TE species within the extension area that could be impacted by this action. Dr. Collins projects that the USFS sensitive plant species – canyon sweet vetch may occur within the extension area. The Division considers

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that subsidence would not likely impact this species' population or habitat because of the type of subsidence (general ground-lowering; meeting 2/1/07) that may occur in their specific habitat type.

The Division will not initiate a formal Consultation with USFWS for this 40-acre extension because there is no supporting data to suggest the presence of TE or their appropriate habitat, and because there is no surface disturbance for facilities. Although the area has been designated as having habitat for Mexican spotted owl, the MRP provides results for a two-year calling survey (Vol. 3, App. 3-3; EIS, 2003/2004) for a nearby project that showed there were no MSO observed. The Division does not consider that additional MSO ground-truthing or calling surveys are necessary for this project because of the negative results and close proximity to the survey area.

There are no significant changes in operations that could change the current water consumption calculations. The Division, however, will be issuing a new set of guidelines for water consumption calculations that the Permittee must address for the pending 600 acres.

There have been no confirmed sightings of black-footed ferrets within Carbon County during 1995, 1996, and the first quarter of 1997 (DWR, Section 322.200).

DOGM INFORMAL, PHONE CONSULTATION WITH USFWS SUMMARY:

The Division initiated informal consultation with the USFWS (Betsy Herriman) on March 7, 2007 for this application. Jerriann Ernstsén informed Betsy that there was no surface disturbance and that the Permittee does not predict significant subsidence for the extension area. Jerriann provided the list of TE species for Carbon County, that there is not adequate habitat for most TE, and that there is habitat for MSO but survey results are negative. Jerriann mentioned that there are no known raptor nests for the extension area.

DOGM INFORMAL DECISION

The Division's determination is that the proposed Dugout Canyon Mine 40-acre expansion is "No effect" to threatened or endangered species listed for Carbon county because there would be no surface disturbance for facilities, there is no significant subsidence planned for the extension area, there is no depletion of water from the Colorado River basin, there are no observations that support the presence of TE.