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State of Utah
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February 8, 2002

Henry R. Maddux, Field Supervisor
U. S. Fish and Wildlife Service
2369 West Orton Circle, Suite 50
West Valley City, Utah 84119

Re: Whitmore Canyon Federal Coal Lease UTU-78562, West Ridge Resources, Inc., West Ridge Mine, C/007/041-PM01H, Outgoing File

Dear Mr. Maddux:

Thank you for your December 31, 2001, letter containing a list of species that may occur in the area of influence of the above-referenced action. On February 1, 2002, we requested your concurrence with our determinations of effects on threatened and endangered species that occur in the mine area, but we were not aware at that time of determinations made by the Bureau of Land management concerning the Mexican spotted owl. We have, therefore, modified the February 1 letter in accordance with the Bureau of Land Management findings.

The Whitmore Canyon lease extension area is entirely underground with no new surface facilities. There is a potential that subsidence effects will be expressed on the surface, but except for a few small areas, cover depth is over 2000 feet. Surface effects, if they occur, are expected to be minimal.

When we originally permitted the West Ridge Mine, we addressed the potential of affecting some of the species in the list, including the Graham beardtongue, bald eagle, and black-footed ferret, and determined there would be no effect on these species. The Graham beardtongue does not grow in the area, and the black-footed ferret has been extirpated from Carbon County. Bald eagles may fly through the area, but there are no known nests that could be affected by the mine.

We also considered the potential effects on the four listed fish species that occur in the Colorado River drainage, the Colorado pikeminnow, humpback chub, razorback sucker, and bonytail. Although the mine could potentially adversely affect these species or their critical habitat through water depletion, it was determined when the mine was originally permitted that existing interagency section 7 agreements adequately address water depletions under 100 acre-feet annually. Water consumption by the mine was estimated at that time to be 67 acre-feet annually. The proposed action would have no effect on water use; therefore, there should be no additional effects on these species. Water use estimates have been confirmed: the current use is about 46 acre-feet annually with an increase to 64 acre-feet expected.

There is no habitat for the Uinta Basin hookless cactus in the proposed addition to the permit area. Habitat for this species is described as "gravelly hills and terraces on Quaternary and Tertiary alluvium soils in cold desert shrub communities between 4,700-6,000 feet elevation" (*Utah Endangered, Threatened and Sensitive Plant Field Guide*). Soils in the area are derived from Cretaceous strata, and the lowest elevation in the proposed addition to the permit area is about 7,600 feet. Vegetation communities

are mostly pinyon/juniper, mixed conifer, and mountain brush with some areas of aspen and riparian habitat; the area does not support a cold desert shrub community.

There is potential the Mexican spotted owl could occur in the area, but Chris Colt of the Division of Wildlife Resources surveyed the proposed addition to the permit area and determined it does not contain the required habitat components and that there is no need to conduct surveys for this species. This is documented in a letter included in the mine plan application. However, a biologist with the Bureau of Land Management also examined the area and determined that limited restricted habitat potentially occurs in the Whitmore Canyon Lease Tract. They decided that this area is potential foraging habitat and marginal roosting habitat. Therefore, consistent with the Bureau of Land Management, we conclude that allowing the project as proposed may affect but is not likely to adversely affect the Mexican spotted owl and is not likely to adversely modify or destroy spotted owl critical habitat. We will also include in our permit a stipulation essentially the same as the Bureau of Land Management added to the lease. Our stipulation will be:

> The permittee must conduct appropriate surveys for Mexican spotted owls on the lease tract areas with 40 percent or greater slopes, cliff habitat areas, riparian habitats, and mixed conifer forest habitats, prior to any future surface disturbing activity and/or any mining activity with the potential to interrupt surface spring flows. Inventory work must be conducted by parties approved and permitted for such survey work by the Fish and Wildlife Service and qualified in accordance with R645-301-132. Surveys must be done following current protocols established by the Fish and Wildlife Service.

The western yellow-billed cuckoo requires dense lowland riparian habitat, and the application includes correspondence from the Division of Wildlife Resources indicating the riparian habitat in Whitmore Canyon is not likely to support a breeding population of yellow-billed cuckoos. They recommended that a survey not be done for this species.

Your letter mentions that there are conservation agreements for the Colorado River cutthroat trout and indicates we should consider whether there would be any effects on this species. The proposed addition to the permit area contains no perennial streams and so has no fisheries (although a nearby area contains a perennial stream where the Division of Wildlife Resources has considered planting this species).

Please let us know if you can concur with our determinations as discussed in this letter. A response by February 15, 2002 would be appreciated.

Sincerely,

Daron R. Haddock

Daron R. Haddock
Permit Supervisor

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cc: Mike Glasson, West Ridge
Price Field Office
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