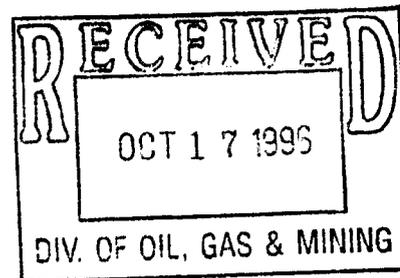




October 1, 1996

Utah Coal Regulatory Program
Division of Oil, Gas and Mining
Price Field Office
451 East 400 North
P.O. Box 156
Price, Utah 84501



Attention: Mr. Bill Malencik

RE: MODIFICATION OF AMENDMENT TO FACILITATE MINING IN ACCORDANCE WITH APPROVED RESOURCE RECOVERY AND PROTECTION PLAN (R2P2); THIRD, FOURTH AND FIFTH EAST DEVELOPMENT, FOURTH AND FIFTH EAST LONGWALL PANELS; PACIFICORP, TRAIL MOUNTAIN MINE, ACT/015/009-96A, EMERY COUNTY, UTAH

PacifiCorp, by and through its wholly-owned subsidiary, Energy West Mining Company ("Energy West") as mine operator, herewith, provides information to modify the above referenced amendment, which was submitted on April 19, 1996. The accompanying information is provided in response to the Division's approval letter, dated April 29, 1996, for said amendment. The enclosed information modifies the materials provided in the April 19 submission; however, the April 19 transmittal letter contains information which is pertinent to this modification.

Modification of the Amendment is necessary because of the results of a meeting, held April 25, 1996, wherein representatives of the U.S. Fish and Wildlife Service, Manti-La Sal National Forest, Bureau of Land Management, Utah Division of Wildlife Resources, Utah Division of Oil, Gas and Mining and Energy West met to address the recent discovery of an active Peregrine falcon territory at Trail Mountain Mine. The consensus reached at that meeting was that the Fourth East longwall panel would not be extended beyond the escarpment. Only the Fifth East panel would be mined beyond the escarpment. The Environmental Analysis process was completed and approval was granted by the Forest Service on July 30, 1996. Subsequently, the R2P2 was again modified to allow reconfiguration of the Fifth East longwall panel set-up and bleeder entries by combining the set-up and bleeder into a single 2-entry development as

Huntington Office:
(801) 687-9821
Fax # (801) 687-2695

Deer Creek Mine:
(801) 381-2317
Fax # (801) 381-2285

Cottonwood Mine:
(801) 748-2319
Fax # (801) 748-2380

depicted on the accompanying Plates 3-2 and 3-3 (certified 10/3/96). This request was submitted to the BLM September 20, 1996 and verbally approved on September 25, 1996. Verbal concurrence by the Forest Service was received on October 1, 1996.

The R2P2, approved by the BLM on March 15, 1996 (see Appendix 3-3L), included extending the Third, Fourth and Fifth East development sections and the Fourth and Fifth East longwall panels approximately 700 feet East beyond the location originally proposed in the December 1994 R2P2 modification proposal. The area into which the development was to be extended is within the Trail Mountain Mine Permit Area. Development mining (first mining) in this area is consistent with previous mine plan approvals and the current Trail Mountain Mine Permit and the approved Mining and Reclamation Plan (MRP). However, the recent discovery of an active Peregrine falcon territory in the vicinity of the proposed extension of the Fourth and Fifth East panels resulted in a modification to the planned mining in this area.

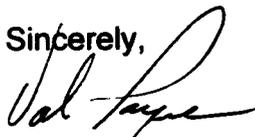
The modification, as discussed in the Division's April 29 approval letter, results in Third East development mining not being extended as described above. Additionally, the Fourth East longwall panel will not be extended, but will be mined as proposed in 1994. The Fourth and Fifth East development sections, in preparation for the Fifth East longwall panel, will be extended as proposed. Only the fifth East panel will be extracted beyond the escarpment.

The accompanying revised MRP text pages 3-19, 3-21 & 3-21.1 and Plates 3-2 and 3-3 reflect changes as discussed above. The subject area is within the Trail Mountain Mine Permit Area and is included in the existing subsidence monitoring and control program. However, additional monitoring activities have been initiated in the area of the Fifth East panel extension. These are described in the accompanying pages 3-47 and 3-47.1.

Forms DOGM-C1 and C-2 are transmitted herewith.

Your continued assistance in this matter is greatly appreciated. If you have questions, please call me at (801) 687-4722. I am available to meet with you at your convenience, if it would be beneficial to your review of this request.

Sincerely,



Val Payne

Sr. Environmental Engineer

cc: P. Grubaugh-Littig
J. Helfrich

APPLICATION FOR PERMIT CHANGE

Title of Change: MODIFICATION OF AMENDMENT TO FACILITATE MINING IN ACCORDANCE WITH APPROVED RESOURCE RECOVERY AND PROTECTION PLAN

Permit Number: ACT10151009

Mine: TRAIL MTN.

Permittee: PACIFICORP

Description, include reason for change and timing required to implement:

MODIFY AMENDMENT 96A TO INCLUDE EXTRACTION OF THE FIFTH EAST LONGWALL PANEL.

- | | | |
|---|--|--|
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 1. Change in the size of the Permit Area? _____ acres <input type="checkbox"/> increase <input type="checkbox"/> decrease. |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 2. Change in the size of the Disturbed Area? _____ acres <input type="checkbox"/> increase <input type="checkbox"/> decrease. |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 3. Will permit change include operations outside the Cumulative Hydrologic Impact Area? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 4. Will permit change include operations in hydrologic basins other than currently approved? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 5. Does permit change result from cancellation, reduction or increase of insurance or reclamation bond? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 6. Does permit change require or include public notice publication? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 7. Permit change as a result of a Violation? Violation # _____ |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 8. Permit change as a result of a Division Order? D.O.# _____ |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 9. Permit change as a result of other laws or regulations? Explain: _____ |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 10. Does permit change require or include ownership, control, right-of-entry, or compliance information? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 11. Does the permit change affect the surface landowner or change the post mining land use? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 12. Does permit change require or include collection and reporting of any baseline information? |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | 13. Could the permit change have any effect on wildlife or vegetation outside the current disturbed area? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 14. Does permit change require or include soil removal, storage or placement? |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | 15. Does permit change require or include vegetation monitoring, removal or revegetation activities? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 16. Does permit change require or include construction, modification, or removal of surface facilities? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 17. Does permit change require or include water monitoring, sediment or drainage control measures? |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | 18. Does permit change require or include certified designs, maps, or calculations? |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | 19. Does permit change require or include underground design or mine sequence and timing? |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | 20. Does permit change require or include subsidence control or monitoring? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 21. Have reclamation costs for bonding been provided or revised for any change in the reclamation plan? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 22. Is permit change within 100 feet of a public road or perennial stream or 500 feet of an occupied dwelling? |
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | 23. Is this permit change coal exploration activity <input type="checkbox"/> inside <input type="checkbox"/> outside of the permit area? |

Attach 37 complete copies of proposed permit change as it would be incorporated into the Mining and Reclamation Plan.

I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

Val E. Fane SR. ENV. ENGINEER 10/3/96
Signed - Name - Position - Date

Subscribed and sworn to before me this 30 day of Oct, 19 96

Notary Public

My Commission Expires: _____
Attest: STATE OF _____
COUNTY OF _____



Notary Public
BARBARA J. ADAMS
15 North Main
Huntington, Utah 84528
My Commission Expires
October 13, 1998
State of Utah

Received by Oil, Gas & Mining
RECEIVED

OCT 17 1996

DIV. OF OIL, GAS & MINING

ASSIGNED PERMIT CHANGE NUMBER

3.3.2.3 PROPERTY BOUNDARIES

Property boundaries are designated in accordance with both State and Federal mining regulations.

3.3.2.4 OUTCROP PROTECTION

Outcrop protection is provided by leaving a minimum barrier of 200' between mine workings and the coal outcrop. One exception to the above is the eastern most entry of the 3-entry system driven north and northeast to the ventilation portal. The eastern entry is located within the 200' barrier for a distance of approximately 240' and at no time comes closer than 160' from the outcrop. The 3-entries were necessary to meet MSHA regulations and provide adequate ventilation. The location of this variance is in the side canyon approximately 1700' south of the forth portal, and is shown on Figure A-3-7-2, Appendix 3-7. Outcrop protection is further addressed in the geotechnical chapter of this permit.

3.3.3 CONSERVATION OF COAL RESOURCES

3.3.3.1 PROJECTED MAXIMUM RECOVERY

Maximum amount of coal recoverable from the Trail Mountain property is approximately ~~26,267,858~~ 26,148,721 tons. Table 3-1 shows the breakdown of coal recovery. Plate 3-3 shows the areas of coal recovery.

3.3.3.2 JUSTIFICATION OF NON-RECOVERY

It is estimated that resource recovery rate of 80% or better can be obtained within the proposed longwall panels. Overall minable reserve recovery for the Trail Mountain Mine is estimated at 60%.

TABLE 3-1

RECOVERABLE RESERVES

<u>LEASE AREA</u>	<u>IN-PLACE TONS</u>	<u>RECOVERABLE TONS</u>
FEDERAL LEASE U-49332	4,361,837	973,002
FEDERAL LEASE U-082996	276,954	93,618
FEDERAL LEASE U-64375	45,404,832	25,201,238 25,082,101
STATE LEASE ML-22603	1,035,160	0
TOTAL RECOVERABLE TONS	ASSIGNED TO TRAIL MOUNTAIN	26,267,858 26,058,721
FOURTH AND FIFTH EAST DEVELOPMENT ONLY		37,699 25,126
FIFTH EAST LONGWALL PANEL ONLY		393,148 286,574

ESTIMATE OF COAL RESERVES
TRAIL MOUNTAIN MINE
(12/22/95)
Revised 10/1/96

BLM TRACT DELINEATION SUMMARY

<u>RESERVE DESCRIPTION</u>	<u>LEASE U-64375</u>
. IN-PLACE RESERVES; BLM TRACT DELINEATION (1990)	49,000,000t
. MINEABLE RESERVES; BLM TRACT DELINEATION (1990)	34,800,000t
. RECOVERABLE RESERVES; BLM TRACT DELINEATION (1990)	12,200,000t

ENERGY WEST RESERVE ESTIMATE SUMMARY

<u>RESERVE DESCRIPTION</u>	<u>LEASE U-64375</u>
. IN-PLACE RESERVES; ENERGY WEST EST. - PRIOR TO 1990	45,404,832t
. MINEABLE RESERVES; ENERGY WEST EST. - PRIOR TO 1990	39,794,850t
. ESTIMATED "ARCO/ MTN. COAL" RECOVERY (1990-1992)	495,813t
. ESTIMATED "ENERGY WEST" RECOVERY (NOV./94 - NOV./95)	1,079,199t
. PROJECTED "ENERGY WEST" RECOVERY (DEC./95 - 2002)	23,507,089t
. TOTAL EST. RECOVERY FEDERAL LEASE U-64375	25,082,101t

OTHER FEDERAL LEASES U-49332 U-082996 ML-22603 TOTALS

RESERVE DESCRIPTION

. IN-PLACE RESERVES (EST. 1995)	4,361,837t	276,954t	1,035,160t	
. MINEABLE RESERVES (EST. 1995)	4,310,698t	276,954t		0t
. EST. REC. RESERVES (EST. 1995)	973,002t	93,618t		0t
. TOTAL EST. RECOVERY FEDERAL LEASES U-49332, U-082996, ML-22603				1,066,620t

**PacifiCorp
Trail Mountain Mine**

Since the major area of concern in introduction of sediments into the stream is the portal and load-out facilities immediately adjacent to the stream, the company has put the stream into a bypass culvert. This will prevent sediment input. This was done in consultation with the appropriate management agency to alleviate the problem. The main canyon culvert was extended approximately 300' upstream in late 1990. This extension impacted approximately 0.21 acres of riparian habitat. As mitigation for this removal of riparian area, 20 small rock check dams were installed in the lower portion of Cottonwood Creek to enhance water retention and possible fish survival. This mitigation was performed in accordance with approval from DWR. Details on location and installation of these structures (as well as the culvert extension) are found in Appendix 7-13 of this MRP. All wildlife habitats will be maintained or improved if disturbed. This will be done by using native or other vegetation approved for reclamation or habitat improvement. No new actions will be undertaken that compromise wildlife or their use areas without prior approval by the appropriate management or regulatory agency.

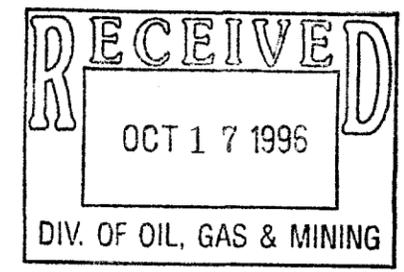
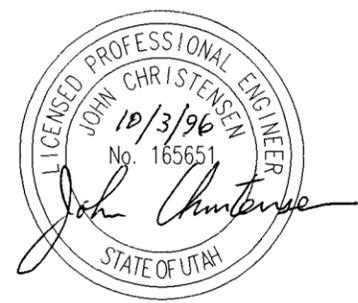
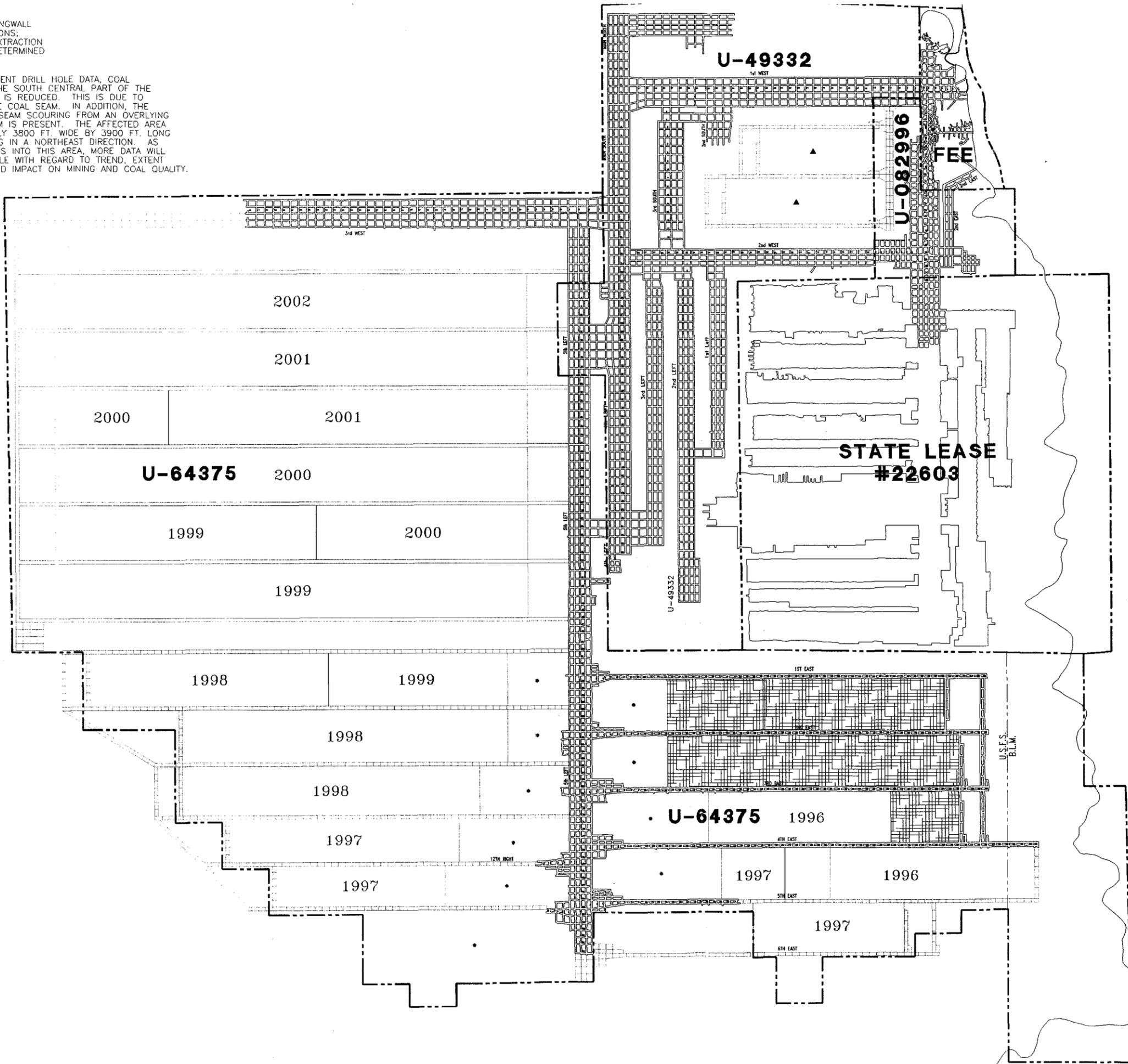
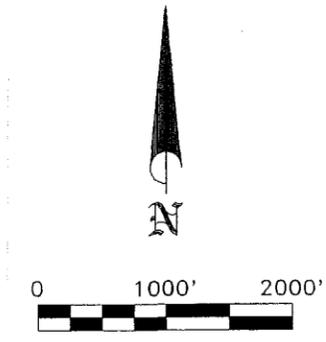
3.4.6.3 MONITORING PROCEDURES

There are few species that will be seriously impacted by the proposed actions. There are no identified, readily accessible reproductive sites for game species that are critical to perpetuation of the species. An active Peregrine falcon territory is located along the escarpment east of the 2nd, 3rd and 4th East panels. The falcons did not nest during the 1996 season. The falcon territory will not be affected by extraction of the 5th East panel. Additionally, a golden eagle nest is located above the eastern end of the 5th East panel. The eagle nest is old and delapidated and has not been observed during previous annual raptor surveys. Extraction of the 5th East panel may affect the eagle nest; therefore, a Federal Fish and Wildlife Permit (PRT-820305) was obtained to allow "taking" of the nest. Additionally, prisims have been installed on

the top of the escarpment above the 5th East panel to facilitate monitoring of movement of the escarpment. The prisims will be monitored prior to, during and for a two (2) year period following extraction of the panel beneath the escarpment. Additionally, photo stations have been established from which the escarpment will be photographed prior to, during and following extraction of the panel. The falcon territory will be monitored to document associated activities. The results of the monitoring will be reported in the annual reports or more frequently as directed. Should additional raptors, moose or any threatened or endangered species subsequently move into or be found in the mine plan area, appropriate UDOGM, UDWR, USFS and USFWS personnel will be notified and mutually agreed upon monitoring or other appropriate activities will be instituted.

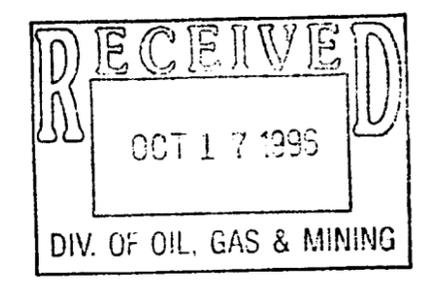
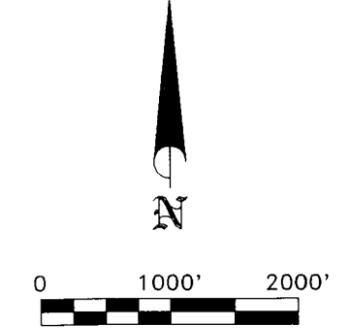
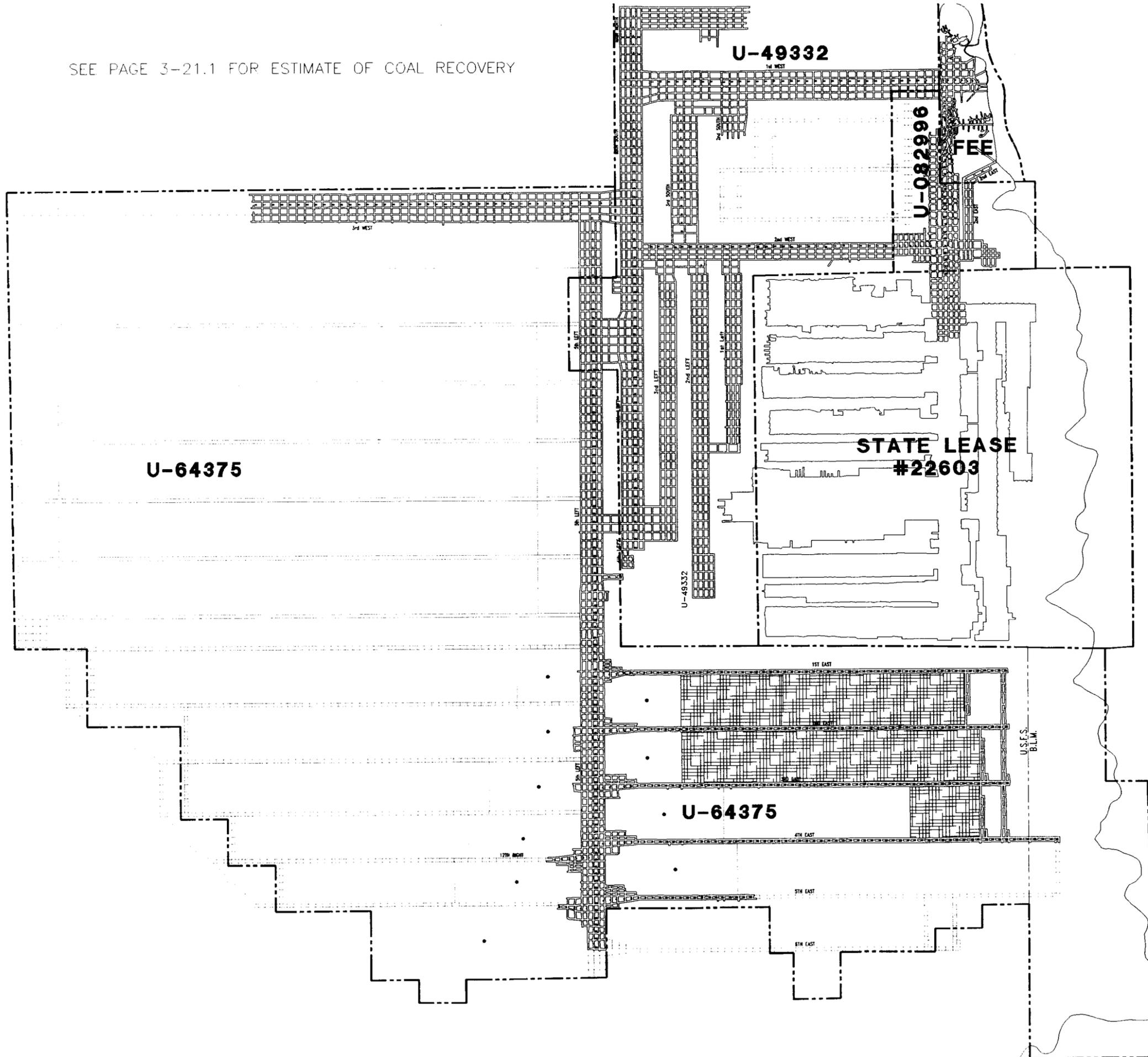
▲ LONG RANGE LONGWALL
 PANEL PROJECTIONS;
 DEVELOPMENT/EXTRACTION
 TIMING TO BE DETERMINED

• BASED ON CURRENT DRILL HOLE DATA, COAL
 THICKNESS IN THE SOUTH CENTRAL PART OF THE
 LEASE U-64375 IS REDUCED. THIS IS DUE TO
 PARTINGS IN THE COAL SEAM. IN ADDITION, THE
 POTENTIAL FOR SEAM SCOURING FROM AN OVERLYING
 CHANNEL SYSTEM IS PRESENT. THE AFFECTED AREA
 IS APPROXIMATELY 3800 FT. WIDE BY 3900 FT. LONG
 AND IS TRENDING IN A NORTHEAST DIRECTION. AS
 MINING PROCEEDS INTO THIS AREA, MORE DATA WILL
 BECOME AVAILABLE WITH REGARD TO TREND, EXTENT
 AND THE RELATED IMPACT ON MINING AND COAL QUALITY.



ENERGY WEST MINING CO.
TRAIL MOUNTAIN COAL MINE
MINING PLAN
PLATE 3-2

SEE PAGE 3-21.1 FOR ESTIMATE OF COAL RECOVERY



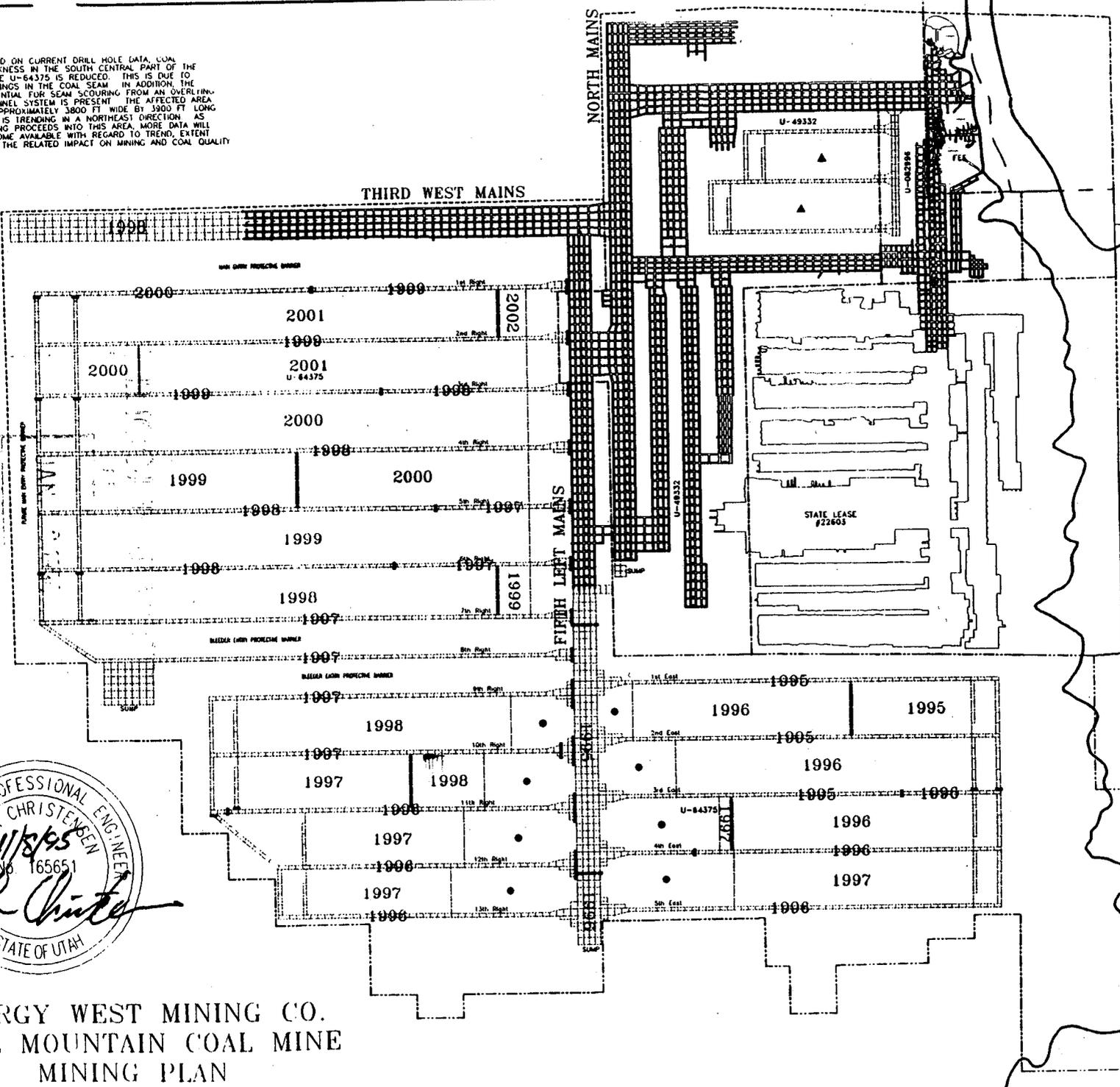
**TRAIL MOUNTAIN MINE
AREAS OF COAL RECOVERY
PLATE 3-3**

● BASED ON CURRENT DRILL HOLE DATA, COAL THICKNESS IN THE SOUTH CENTRAL PART OF THE LEASE U-64375 IS REDUCED. THIS IS DUE TO PARTINGS IN THE COAL SEAM. IN ADDITION, THE POTENTIAL FOR SEAM SCOURING FROM AN OVERLAIN CHANNEL SYSTEM IS PRESENT. THE AFFECTED AREA IS APPROXIMATELY 3800 FT WIDE BY 3900 FT LONG AND IS TRENDING IN A NORTHEAST DIRECTION AS MINING PROCEEDS INTO THIS AREA. MORE DATA WILL BECOME AVAILABLE WITH REGARD TO TREND, EXTENT AND THE RELATED IMPACT ON MINING AND COAL QUALITY.

▲ LONG RANGE LONGWALL PANEL PROJECTIONS. DEVELOPMENT/EXTRACTION TIMING TO BE DETERMINED

DRAWN BY: J. CHRISTENSEN

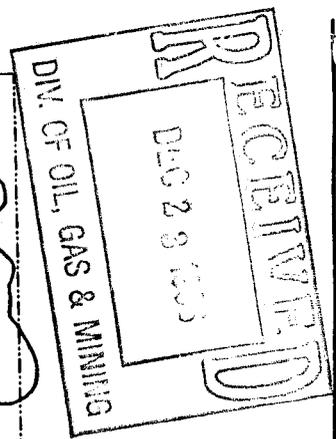
DB-95A



SCALE: 1" = 2000'

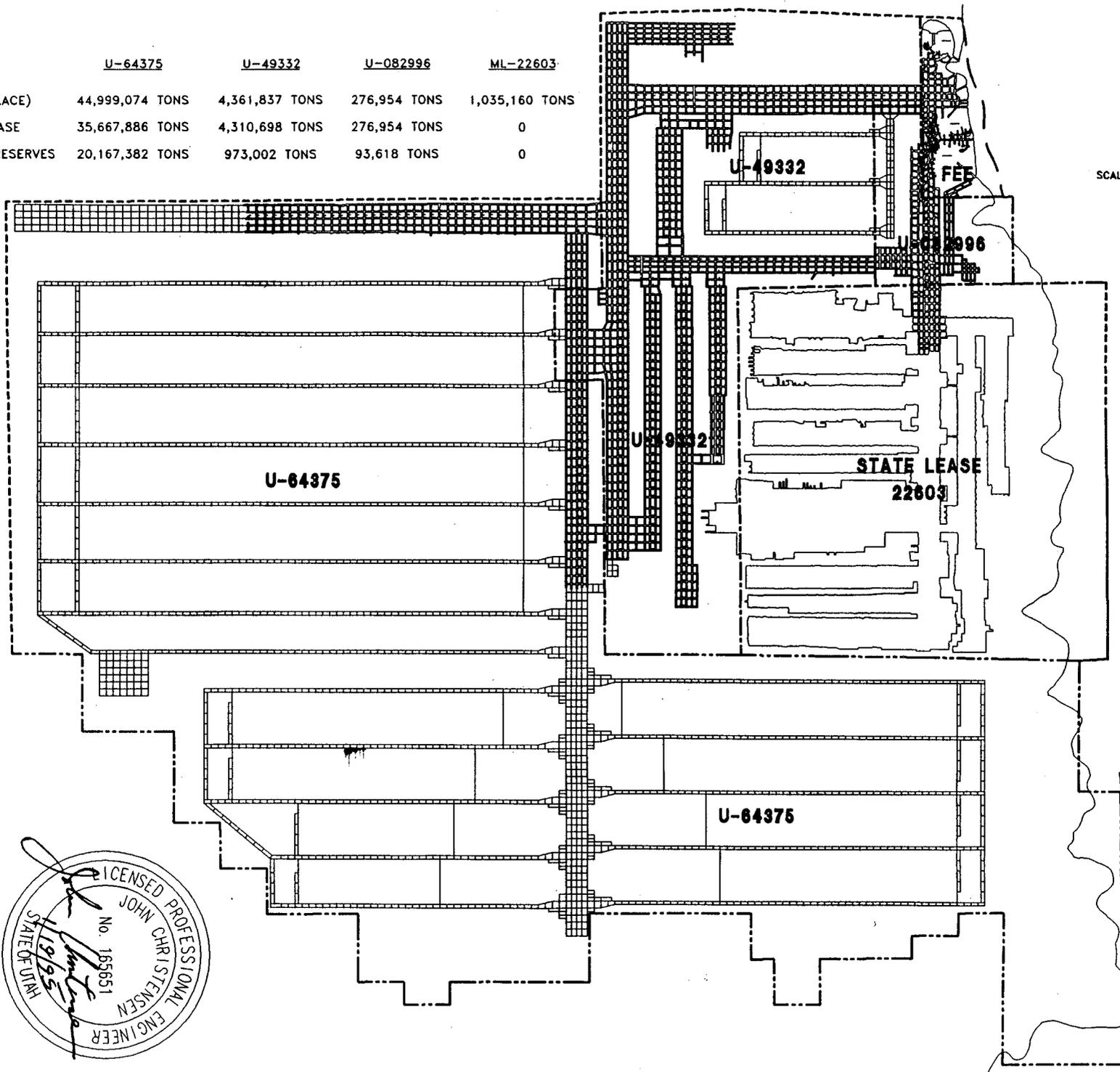


ENERGY WEST MINING CO.
 TRAIL MOUNTAIN COAL MINE
 MINING PLAN
 PLATE 3-2

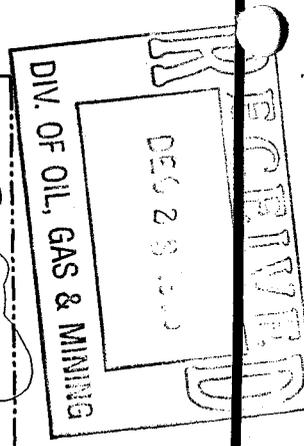
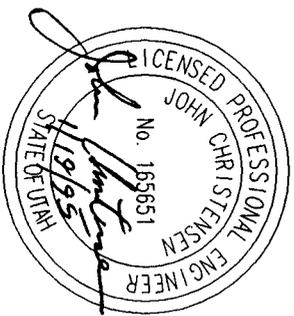


LEASE	U-64375	U-49332	U-082996	ML-22603
RESERVE BASE (IN PLACE)	44,999,074 TONS	4,361,837 TONS	276,954 TONS	1,035,160 TONS
MINEABLE RESERVE BASE	35,667,886 TONS	4,310,698 TONS	276,954 TONS	0
RECOVERABLE COAL RESERVES	20,167,382 TONS	973,002 TONS	93,618 TONS	0

N
SCALE: 1"=2000'



**TRAIL MOUNTAIN MINE
AREAS OF COAL RECOVERY
PLATE 3-3**



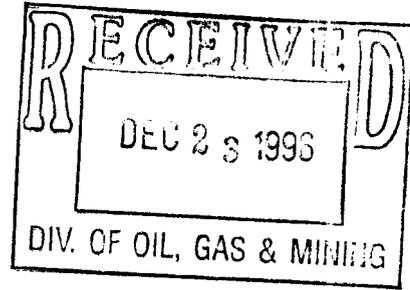


EXHIBIT 1

**Application for Modification
of
Federal Coal Lease UTU-64375
Trail Mountain Mine**

Application for Modification of Federal Coal Lease UTU-64375

Trail Mountain Coal Mine, Emery County, Utah

1.0 Introduction

This lease modification application for unleased federal coal is submitted to the authorized officer of the Bureau of Land Management (BLM), Utah State Office, in accordance with the applicable rules and regulations set forth within title 43 CFR Subpart 3432.

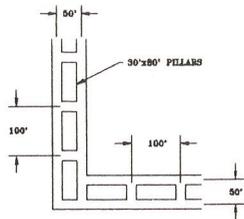
The lease modification applicant is: **PacifiCorp**
c/o Interwest Mining Company
One Utah Center, Suite 2000
201 South Main Street
Salt Lake City, Utah 84140-0020

2.0 Application § 3432.1

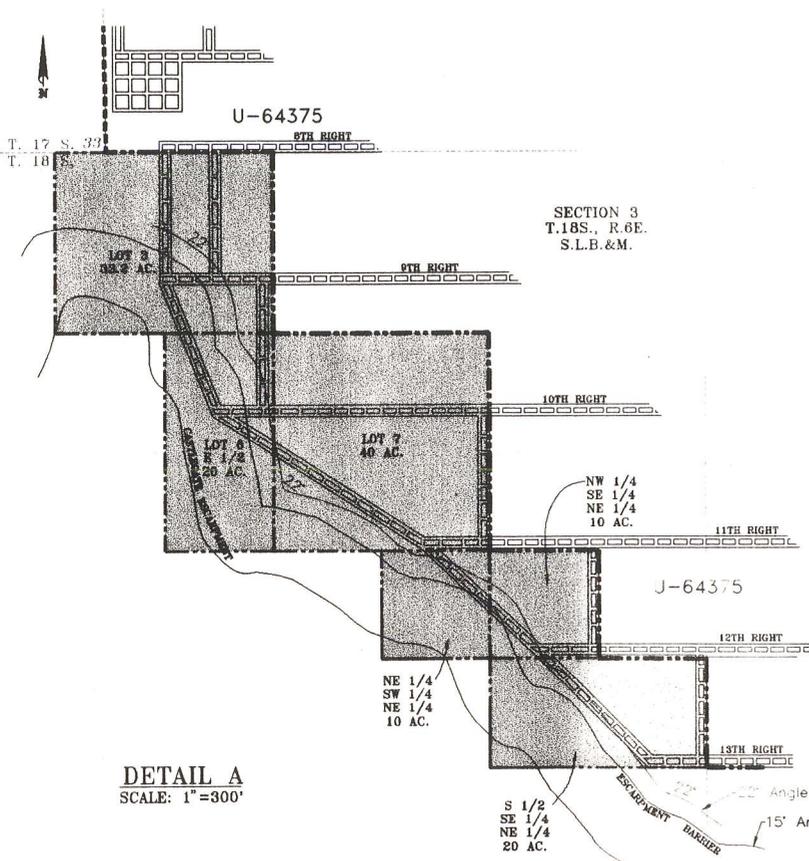
(a) The applicant is the current lessee of record for federal coal lease UTU-64375 and hereby seeks to modify said lease to include unleased contiguous coal lands or coal deposits consisting of 133.2 acres. Federal coal lease UTU-64375 was originally issued on October 1, 1990 consisting of 2,630.81 acres. To the best knowledge of the applicant, this lease has not been previously modified.

(b) The area of lease modification is described as follows and as shown on Figure 1:

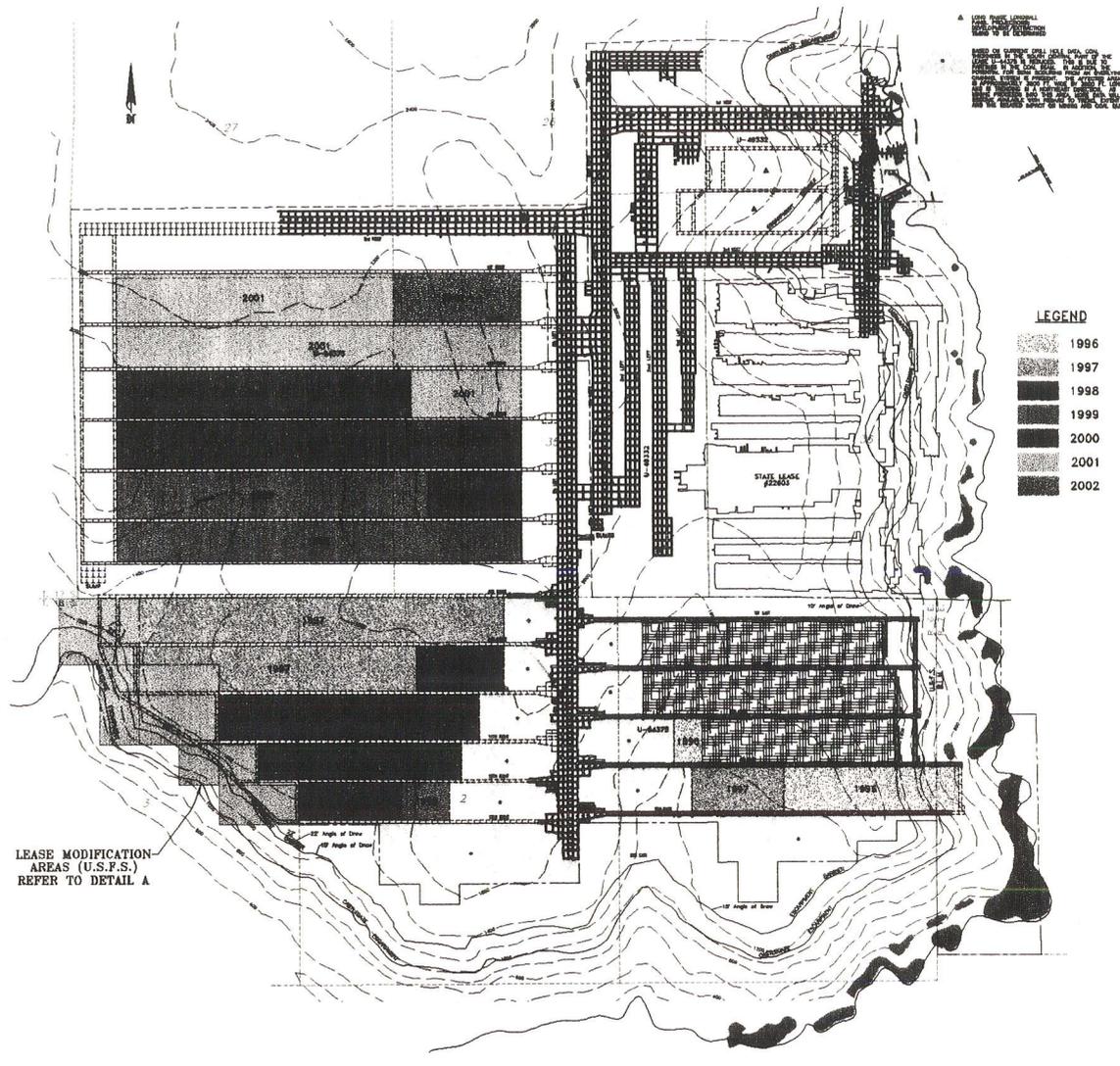
<u>T. 18 S., R. 6 E. SLM</u>		
Section 3	Lot 3	33.2 acres
	E½ of Lot 6	20.0
	Lot 7	40.0
	NE¼SW¼NE¼	10.0
	NW¼SE¼NE¼	10.0
	S½SE¼NE¼	20.0
<hr/>		
Total lease modification acreage		133.2 acres



TYPICAL PILLAR DETAIL
SCALE: 1"=100'



DETAIL A
SCALE: 1"=300'



GENERAL LOCATION MAP
SCALE: 1"=800'

OWNERSHIP INTEREST OF PROPOSED
LEASE MODIFICATION

SURFACE: DEPARTMENT OF AGRICULTURE
UNITED STATES FOREST SERVICE
MANTI-LASAL NATIONAL FOREST

SUBSURFACE: DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

NOTE:
PROJECTED RESERVES OF THE 6TH EAST
LONGWALL PANEL ARE PROPOSED FOR DELETION
FROM THE RECOVERABLE RESERVE BASE DUE TO
COAL QUALITY CONCERNS

MINE WORKINGS UPDATED TO 10/1/98

FIGURE 1

OLD FILE NUMBER HISTORY	
ENERGY WEST MINING COMPANY	
MANTI-LASAL NATIONAL FOREST	
TRAIL MOUNTAIN MINE LEASE MODIFICATION LEASE U-64375	
DESIGN BY: E. LARSEN	CM-10898-TM
SCALE: AS NOTED	FIGURE 1
DATE: DECEMBER 8, 1992	SHEET 1 OF 1

Subsurface ownership:
(All Minerals)

U.S. Department of the Interior
Bureau of Land Management
Utah State Office
324 South State Street
Salt Lake City, Utah 84111-2303

Surface ownership:
(All)

U.S. Forest Service
Manti-LaSal National Forest
Price District
599 West Price River Drive
Price, Utah 84501

This modification is necessitated to maximize coal recovery which would otherwise be bypassed in the 9th and 10th Right longwall panels between existing lease boundaries and the projected 22° angle of draw in Straight Canyon. It is planned to develop the 9th and 10th Right gateroad entries westward (as depicted on Map 1) into the lease modification area to allow (1) development of the bleeder entries (first mining only) within those areas not conducive for full extraction retreat mining, (2) repositioning the longwall set up entries into the modified lease area, thus extending the recovery length of both longwall panels, and (3) enabling greater recovery of the coal from the applicants adjacent federal coal lease UTU-64375, netting approximately an additional 490,000 tons of recoverable reserves which would otherwise be bypassed. Without the lease modification, development of the bleeder and longwall setup entries would have to be developed within the current lease boundaries, thus shortening the longwall panels and leaving the potential net gain in recoverable reserves.

This modification would be to the advantage and serves the interest of the United States simply because:

1. The coal could not logically be accessed and recovered by any other operations or means.

2. Maximize utilization of the coal resource, through prudent mine planning the **avoidance** and bypass of coal reserves is eliminated.
3. **Encourages** the greatest ultimate recovery of the coal within and adjacent to the modification area.
4. Provides additional revenues to the United States in the form of annual rentals and production royalties, while affording prudent environmental protection.

3.0 Availability § 3432.2

(a)(1) The applicant feels that the lease should be modified based upon its own merits and taking into consideration the items listed above. Furthermore, the criteria set forth under this subsection has been met and serves the best interests of the United States.

(a)(2) There is no logical competitive interest in the lands or deposits because:

1. The applicant is the lessee of record holding the federal lease adjacent to the east side of the modification area.
2. There is no other nearby operation which could economically mine this area.
3. The only logical access is from the applicant's Trail Mountain Mine.

(a)(3) Due to its isolation on the far west side of the existing Trail Mountain Mine operations, the likelihood of leasing this parcel through competitive solicitation is highly remote and **unlikely**. This parcel cannot logically be mined or developed as part of another operation or **any** potential operation. There is no other operation in the area that could economically access this area.

(b) Coal deposits underlying this parcel can only be mined by underground mining techniques due to the depth of the overburden. Any other method would be precluded.

(c) Applicant request the lands applied for lease modification be added to applicant's existing federal lease UTU-64375 without competitive bidding. Applicant commits

compensation to the United States of the fair market value either by cash or through an adjustment of the production royalty. Applicant feels the production royalty of 8%, plus the additional annual rentals of \$3.00 per acre per year (as required in federal lease UTU-64375) would be just compensation for said lands and coal reserves, which would otherwise be lost or bypassed.

4.0 Terms and Conditions § 3432.3

(a) The terms and conditions of federal lease UTU-64375, of which the applicant proposes to modify, were originally developed upon lease issuance effective October 1, 1990.

(b) Upon applicant's review and acceptance of the lease terms and conditions of the modified lease, Lessee/Applicant will file written notice of acceptance with the BLM. It is the intent of the Lessee upon final modification of said lease, to include this modified area into the Trail Mountain Mine Logical Mining Unit (LMU).

(c) To assist the BLM in addressing compliance with the procedures and standards set out in 43 CFR § 3425.3, applicant is prepared to provide any and all applicable data from its files to address the environmental assessments in the area including mining suitability, cliff escarpment, surface impact and hydrologic studies. Attached are copies of various environmental and decision documents associated with the Trail Mountain Mine permitting actions involving adjacent federal coal lease UTU-64375.

List of Attachments

1. Federal Coal Lease UTU-64375, issued effective 10-1-90.
2. Trail Mountain Mine DOGM Permit Renewal, ACT/015/009, dated 2-21-95.
3. USFS Decision Notice / FONSI / Environmental Assessment for the Underground Accessway and Undermining of Escarpment - Trail Mountain Mine dated 3-18-96.
4. Trail Mountain Mine R²P² Minor Modification Request, Settlement Agreement dated 3-4-96.
5. DOGM Mine Permit Approval Trail Mountain Mine R²P² 3rd, 4th and 5th East Development and 4th and 5th East Longwall Panels dated 4-29-96.

List of Attachments (continued)

6. **BLM Response to Trail Mountain Mine R²P² Minor Modification Request, Longwall Panel Extension using a 23 Degree Angle of Draw dated 8-23-96.**
7. **DOGM Mine Permit Approval 2nd Mining Trail Mountain Mine R²P², ACT/015/009-96A dated 10-17-96.**
8. **MAP 1 - Trail Mountain Mine Lease Modification U-64375 (with Proposed Mine Plan Layout)**

EXHIBIT 2

**Forest Service Special Use Permit
Underground Right-of-Way
Trail Mountain Mine, Emery County, Utah**

FS-2700-4c (7/96)
OMB No. 0596-0092

U. S. DEPARTMENT OF AGRICULTURE Forest Service UNDERGROUND ACCESSWAY SPECIAL-USE PERMIT Act of October 21, 1976 (PL 94-579); 36 CFR 251.50, et seq	Holder No.	Issue Date	Expir. Date
	4 0 0 1-3 0	-- / -- / --	-- / -- / --
	Type Site	Authority	Auth. Type
	7 5 3	6 2 5	-- 2 0 --
	Region/Forest/District	State/County	
	0 4/ 1 0/ 0 3	4 2/ 0 1 5	
	Cong. Dist.	Latitude	Longitude
	--	-- -- --	-- -- --

PacificCorp - c/o Scott M. Childs - Interwest Mining Company, One Utah Center, Suite 2000, 201 South Main Street, Salt Lake City, Utah 84140-0020.

(hereafter called the Permittee) is hereby authorized to use National Forest lands for the construction, reconstruction, maintenance, and use of underground accessways within the Manti-La Sal National Forest for the following purposes:

Underground accessways to provide transportation access for development of Federal Coal Lease activities. Access includes coal transport systems (i.e., conveyor belts); transport of equipment and personnel; and associated utilities such as water, electrical, power, telephone, air, etc.

This permit is not authorized to sever the coal resources within the authorized accessways. As per 43 CFR 3431.2(b). The severance of coal shall be approved by the Bureau of Land Management. Removal of coal shall be subject to the Surface Mining Control and Reclamation Act of 1977 and authorized by the Utah Division of Oil, Gas, and Mining and be included in the Mining and Reclamation Plan for the Trail Mountain Mine.

The lands covered by this permit are located in the County of Emery, State of Utah and are described as follows:

<u>Section 3</u>	<u>Acres</u>
Lot 3	33.2
E 1/2 of Lot 6	20.0
Lot 7	40.0
NE 1/4 SW 1/4 NE 1/4	10.0
NW 1/4 SE 1/4 NE 1/4	10.00
S 1/2 SE 1/4 NE 1/4	<u>20.00</u>
	133.20 Total Acreage

See map for location and details.

This permit covers a right-of-way 11,500 feet long, and 70 feet wide, containing approximately 18.6 acres, and is located under the ground according to the survey line, figures, measurements, widths, and other references shown on the map or plat attached hereto and made a part hereof.

This permit is made subject to the following terms, provisions, and conditions:

1. This permit is subject to all existing easements and valid rights existing on this date.
2. The Permittee in exercising the privileges granted by this permit shall comply with all applicable State and Federal laws, Executive Orders, and Federal rules and regulations, and shall comply with all State standards for public health and safety, environmental protection, and siting construction, operation, maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards.
3. The Permittee shall dispose of no coal except as authorized by the Bureau of Land Management and/or the Utah Division of Oil, Gas, and Mining.
4. Permittee shall indemnify the United States for any and all injury, loss, or damage, including fire suppression costs the United States may suffer as a result of claims, demands, losses, or judgments caused by the Permittee's use or occupancy under this permit.

In addition, the holder shall be held liable for all injury, loss, or damage, including, but not limited to fire suppression costs, directly or indirectly resulting from or caused by the holder's use and occupancy of the area covered by the permit, regardless of whether the holder is negligent, provided that the maximum liability without fault shall not exceed \$1,000,000 for any one occurrence and provided further that the holder shall not be liable when such injury, loss, or damage results from a negligent act of the United States, or a third party not involving the facilities of of the holder.

Liability for injury, loss, or damage, including fire suppression costs, in excess of the specified maximum, shall be determined by Federal and State laws governing ordinary negligence. (F-21)

5. Permittee shall pay annually in advance a sum determined by the Forest Service to be the fair market value for the accessways authorized as described on the face of this permit. Payment does not include the fair market value of coal removed in connection with this permit. Any such payment for the coal resource must be made directly to the Bureau of Land Management (BLM), and in accordance with BLM's regulations and policy.

The initial payment to the Forest Service for the accessways authorized by this permit is set at \$ - 0 - _____ for the remainder of the calendar year. Payments for each subsequent calendar year shall be the amount of \$ 126.67 adjusted using the Implicit Price Deflator-Gross National Product index (IPD-GNP), or other factor selected by the Forest Service, to reflect more nearly the current fairmarket value of the use. At intervals to be determined by certain changes in the indexes used to establish the linear rights-of-way fee schedule, the fee shall be reviewed and adjusted as necessary to assure that it is commensurate with the value of the rights and privileges authorized. Failure of the Permittee to pay the annual payment, late charges, or other fees or charges shall cause the permit to terminate.

6. The Permittee shall pay an interest charge on any fee amount not paid by the payment due date.

Interest shall be assessed using the most current rate prescribed by the United States Department of Treasury Financial Manual (TFM-6-8020). Interest shall accrue from the date the fee payment was due. In addition, certain processing and handling administrative costs may be assessed in the event the account becomes delinquent and added to the amounts due.

A penalty of 6 percent per year shall be assessed on any fee amount overdue in excess of 90 days from the due date of the first billing.

Payments will be credited on the date received by the designated collection officer or deposit location. If the due date(s) for any of the above payments or fee calculation statements fall on a nonworkday, the charges shall not apply until the close of business of the next workday.

7. All development of the underground accessways shall be in accordance with plans, specifications, and written stipulations as described in the approved Mining and Reclamation Plan and Mine Permit issued by the Utah Division of Oil, Gas, and Mining.

8. The Permittee shall repair fully all damage to National Forest roads and trails caused by the exercise of the privileges granted by this permit.

9. The United States may use the underground accessways without cost for all purposes deemed necessary or desirable in connection with the protection and administration of the lands or resources of the United States.

10. The Forest Service retains the right to occupy and use the accessways and to issue or grant rights-of-way for land uses, upon, over, under, and through the permitted area provided that the occupancy and use do not interfere unreasonably with the rights granted herein.

11. Unless sooner terminated in accordance with the provisions of the permit, or revoked by the Regional Forester, this permit shall expire and terminate upon relinquishment of the associated Federal (BLM) Coal Leases(s).

12. This permit may be terminated or suspended upon breach of any of the conditions herein, or revoked at the discretion of the Regional Forester.

13. Upon termination or revocation of this special-use authorization, the Permittee shall remove within a reasonable time any authorized structures and improvements within the authorized accessways and shall restore the site to a condition satisfactory to the authorized officer, unless otherwise waived in writing or in the authorization. If the Permittee fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but this does not relieve the Permittee from liability for the removal and site restoration costs.

14. The holder has full responsibility to comply with all mitigation measures identified in the Mitigation and Monitoring Plan attached hereto to, and made a part hereof, this permit.

15. (B-2) - During the performance of this authorization, the holder agrees that:

1. The holder and employees shall not discriminate by segregation or otherwise against any person on the basis of race, color, or national origin by curtailing or refusing to furnish accommodations.

2. Title VI attaches coverage to the holder's employment practices if discrimination in employment impeded the delivery of services and benefits to people on the basis of their race, color, or national origin.

3. The holder shall include and require compliance with this nondiscrimination provision in any subcontract made with respect to the operations under this authorization.

15. (B-26) - Holder shall take all measures necessary to protect the health and safety of all persons affected by its activities performed in connection with the construction, operation, maintenance, or termination of the right-of-way, and shall promptly abate as completely as possible any physical or mechanical procedure, activity, event, or condition, existing or occurring at any time: (1) that is susceptible to abatement by the holder, (2) which arises out of, or could adversely affect the construction, operation, maintenance, or termination of all or any part of the underground access, and (3) that causes or threatens to cause: (a) a hazard to the safety of workers or to public health or safety, or (b) serious and irreparable harm or damage to the environment (including but not limited to areas of vegetation or timber, fish or other wildlife populations, or their habitats, or any other natural resource). Holder shall immediately notify the authorized officer of all serious accidents which occur in connection with such activities.

17. (D-18) - The holder agrees to take all necessary precautions to avoid damage to property and resources of the United States and will, independently and upon request of the Forest Service, prevent and suppress fires on or near lands occupied, or to be occupied, under this permit, and to pay and indemnify the United States for any and all injury, loss, or damage, including but not limited to fire suppression costs, the United States may suffer as a result of claims, demands, losses, or judgments caused by the holder's use or occupancy to the maximum extent possible in accordance with State laws, ordinances, regulations, and rules.

18. (X-17) - If, prior to or during excavation work, items of archaeological, paleontological, or historic value are reported or discovered, or an unknown deposit of such items is disturbed, the holder will immediately cease excavation in the area so affected. Holder will then notify the Forest Service and will not resume excavation until written approval is given by the authorized officer.

If it deems it necessary or desirable, the Forest Service may require the holder to have performed recovery, excavation, and preservation of the site and its artifacts at the holder's expense. At the option of the Forest Service, this authorization may be terminated at no liability by the United States when such termination is deemed necessary or desirable to preserve or protect archaeological, paleontological, or historic sites and artifacts.

19. (X-74) - This permit confers no right to the use of water by the holder.

20. (X-96) - Appeal of any provisions of this authorization or any requirements thereof shall be subject to the appeal regulations at 36 CFR 251, Subpart C (54 FR 3362, January 23, 1989), or revisions thereto.

In Witness Whereof, the parties hereto have caused this permit to be duly executed on the ____ day of _____, 1996.

Permittee
By _____
 name
Title _____
 PacifiCorp

USDA Forest Service
by _____
 JANETTE S. KAISER
Title Forest Supervisor
 Manti La Sal National Forest



Location Map

EA for the Underground Access
way and Undermining of Escar
ment, Trail Mtn Mine

March 1996



ATTACHMENT 1

Federal Coal Lease UTU-64375, Issued Effective 10/1/90

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial Number

UTU-64375

COAL LEASE

PART I. LEASE RIGHTS GRANTED

This lease, entered into by and between the UNITED STATES OF AMERICA, hereinafter called lessor, through the Bureau of Land Management, and (Name and Address)

Beaver Creek Coal Company
1305 S. Carbon Avenue
Price, Utah 84501

OCT 1 1990

hereinafter called lessee, is effective (date) for a period of 20 years and for so long thereafter as coal is produced in commercial quantities from the leased lands, subject to readjustment of lease terms at the end of the 20th lease year and each 10-year period thereafter.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

- Mineral Lands Leasing Act of 1920, Act of February 25, 1920, as amended, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;
- Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

and to the regulations and formal orders of the Secretary of the Interior which are now or hereafter in force, when not inconsistent with the express and specific provisions herein.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to drill for, mine, extract, remove, or otherwise process and dispose of the coal deposits in, upon, or under the following described lands:

T. 17 S., R. 6 E., SLM, Utah
 Sec. 26, S $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 27, S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 34, all;
 Sec. 35, lots 3 and 4, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 18 S., R. 6 E., SLM, Utah
 Sec. 1, lots 1-8, S $\frac{1}{2}$ N $\frac{1}{2}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 2, lots 1-8, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 3, lots 1, 2, and 8, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 18, S., R. 7 E., SLM, Utah
 Sec. 6, lots 4-7, W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$.

containing 630.81 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

PART II. TERMS AND CONDITIONS

c. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and advance for each acre or fraction thereof during the continuance of the lease at the rate of \$ 3.00 for each lease year.

(b) RENTAL CREDITS - Rental shall not be credited against either production or advance royalties for any year.

c. 2. (a) PRODUCTION ROYALTIES - The royalty shall be 12 $\frac{1}{2}$ & 8 percent of the value of the coal as set forth in the regulations. Royalties are due to lessor the final day of the month succeeding the calendar month which the royalty obligation accrues.

(b) ADVANCE ROYALTIES - Upon request by the lessee, the authorized officer may accept, for a total of not more than 10 years, the payment of advance royalties in lieu of continued operation, consistent with the regulations. The advance royalty shall be based on a percent of the lease minimum number of tons determined in the manner prescribed by the advance royalty regulations in effect at the time the lessee requests approval to pay advance royalties in lieu of continued operation.

c. 3. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ **. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

** \$4,891,505.00

Sec. 4. DILIGENCE - This lease is subject to the conditions of diligent development and continued operation, except that these conditions are excused when operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee. The lessor, in the public interest, may suspend the condition of continued operation upon payment of advance royalties in accordance with the regulations in existence at the time of the suspension. Lessee's failure to produce coal in commercial quantities at the end of 10 years shall terminate the lease. Lessee shall submit an operation and reclamation plan pursuant to Section 7 of the Act not later than 3 years after lease issuance.

The lessor reserves the power to assent to or order the suspension of the terms and conditions of this lease in accordance with, inter alia, Section 39 of the Mineral Leasing Act, 30 U.S.C. 209.

Sec. 5. LOGICAL MINING UNIT (LMU) - Either upon approval by the lessor of the lessee's application or at the direction of the lessor, this lease shall become an LMU or part of an LMU, subject to the provisions set forth in the regulations.

The stipulations established in an LMU approval in effect at the time of LMU approval will supersede the relevant inconsistent terms of this lease so long as the lease remains committed to the LMU. If the LMU of which this lease is a part is dissolved, the lease shall then be subject to the lease terms which would have been applied if the lease had not been included in an LMU.

Sec. 6. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, ~~works~~, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall allow lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 7. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall comply at its own expense with all reasonable orders of the Secretary, respecting diligent operations, prevention of waste, and protection of other resources.

Lessee shall not conduct exploration operations, other than casual use, without an approved exploration plan. All exploration plans prior to the commencement of mining operations within an approved mining permit area shall be submitted to the authorized officer.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health, or property, and prevention of waste, damage or degradation to any land, air, water, cultural, biological, visual, and other resources, including mineral deposits and formations of mineral deposits not leased hereunder, and other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures. Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple mineral development.

Sec. 8. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's contractors shall maintain segregated facilities.

c. 15. SPECIAL STIPULATIONS -

Sec. 9. (a) TRANSFER

- This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.
- This lease may be transferred in whole or in part to another public body or to a person who will mine the coal on behalf of, and for the use of, the public body or to a person who for the limited purpose of creating a security interest in favor of a lender agrees to be obligated to mine the coal on behalf of the public body.
- This lease may only be transferred in whole or in part to another small business qualified under 13 CFR 121.

Transfers of record title, working or royalty interest *must* be approved in accordance with the regulations.

(b) RELINQUISHMENT - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 10. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all workings in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities incidental thereto, and reclaim access roads or trails.

Sec. 11. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 12. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 13. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 14. SPECIAL STATUTES - This lease is subject to the Clean Water Act (33 U.S.C. 1252 et. seq.), the Clean Air Act (42 U.S.C. 4274 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation, including the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et. seq.).

This coal lease is subject to termination if the lessee is determined at the time of issuance to be in noncompliance with Section 2(a)2(A) of the Mineral Leasing Act.

- SEE ATTACHED STIPULATIONS -

THE UNITED STATES OF AMERICA

DEPARTMENT OF THE INTERIOR

By Bureau of Land Management

Beaver Creek Coal Company

Company or Lessee Name

Richard W. Mohr

President (Signature of Lessee)

[Signature]

(Signing Officer)

Chief, Minerals Adjudication Section

(Title)

(Title)

AUG 18 1990

(Date)

SEP 18 1990

(Date)

18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

This form does not constitute an information collection as defined by 44 U.S.C. 3502 and therefore does not require OMB approval.

1. The Regulatory Authority shall mean the State Regulatory Authority pursuant to a cooperative agreement approved under 30 CFR Part 745 or in the absence of a cooperative agreement, Office of Surface Mining. The authorized officer shall mean the State Director, Bureau of Land Management. The authorized officer of the Surface Management Agency shall mean the Forest Supervisor, Forest Service. Surface Management Agency for private surface is the Bureau of Land Management. For adjoining private lands with Federal minerals and which primarily involve National Forest Service issues, the Forest Service will have the lead for environmental analysis and, when necessary, documentation in an environmental assessment or environmental impact statement.

2. The authorized officers of the Bureau of Land Management, Office of Surface Mining (Regulatory Authority), and the Surface Management Agency (Forest Service) respectively, shall coordinate, as practical, regulation of mining operations and associated activities on the lease area.

3. In accordance with Sec. 523(b) of the "Surface Mining Control and Reclamation Act of 1977," surface mining and reclamation operations conducted on this lease are to conform with the requirements of this Act and are subject to compliance with Office of Surface Mining regulations, or as applicable, an equivalent Utah program approved under a cooperative agreement in accordance with Sec. 523(c). The United States Government does not warrant that the entire tract will be susceptible to mining.

4. Federal Regulations 43 CFR 3400 pertaining to Coal Management make provisions for the Surface Management Agency, the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior, to consent to leasing and to prescribe conditions to insure the use and protection of the lands. All or part of this lease contain lands the surface of which are managed by the United States Department of Agriculture, Forest Service Manti-LaSal National Forest.

The following stipulations pertain to the lessee responsibility for mining operations on the lease area and on adjacent areas as may be specifically designated on National Forest System lands.

5. Before undertaking activities that may disturb the surface of previously undisturbed leased lands, the lessee may be required to conduct a cultural resource inventory and a paleontological appraisal of the areas to be disturbed. These studies shall be conducted by qualified professional cultural resource specialists or qualified paleontologists, as appropriate, and a report prepared itemizing the findings. A plan will then be submitted making recommendations for the protection of or measures to be taken to mitigate impacts for identified cultural or paleontological resources.

If cultural resources or paleontological remains (fossils) of significant scientific interest are discovered during operations under this lease, the lessee prior to disturbance shall immediately bring them to the attention of the appropriate authorities. Paleontological remains of significant scientific interest do not include leaves, ferns, or dinosaur tracks commonly encountered during underground mining operations.

The cost of conducting the inventory, preparing reports, and carrying out mitigating measures shall be borne by the lessee.

6. If there is reason to believe that threatened or endangered (T&E) species of plants or animals, or migratory bird species of high Federal interest occur in the area, the lessee shall be required to conduct an intensive field inventory of the area to be disturbed and/or impacted. The inventory shall be conducted by a qualified specialist and a report of findings will be prepared. A plan will be prepared making recommendations for the protection of these species or action necessary to mitigate the disturbance.

The cost of conducting the inventory, preparing reports, and carrying out mitigating measures shall be borne by the lessee.

7. The lessee shall be required to perform a study to secure adequate baseline data to quantify the existing surface resources on and adjacent to the lease area. Existing data may be used if such data is adequate for the intended purposes. The study shall be adequate to locate, quantify, and demonstrate the inter-relationship of the geology, topography, surface hydrology, vegetation, and wildlife. Baseline data will be established so that future programs of observation can be incorporated at regular intervals for comparison.

8. Powerlines used in conjunction with the mining of coal from this lease shall be constructed so as to provide adequate protection for raptors and other large birds. When feasible, powerlines will be located at least 100 yards from public roads.

9. The limited area available for mine facilities at the coal outcrop, steep topography, adverse winter weather, and physical limitations on the size and design of the access road, are factors which will determine the ultimate size of the surface area utilized for the mine. A site specific environmental analysis will be prepared for each new mine site development and for major modifications to existing developments to examine alternatives and mitigate conflicts.

10. Consideration will be given to site selection to reduce adverse visual impacts. Where alternative sites are available, and each alternative is technically feasible, the alternative involving the least damage to the scenery and other resources shall be selected. Permanent structures and facilities will be designed and screening techniques employed to reduce visual impacts and, where possible, achieve a final landscape compatible with the natural surroundings. The creation of unusual, objectionable, or unnatural land forms and vegetative landscape features will be avoided.

11. The lessee shall be required to establish a monitoring system to locate, measure, and quantify the progressive and final effects of underground mining activities on the topographic surface, underground and surface hydrology and vegetation. The monitoring system shall utilize techniques which will provide a continuing record of change over time and an analytical method for location and measurement of a number of points over the lease area. The monitoring shall incorporate and be an extension of the baseline data.

12. The lessee shall provide for the suppression and control of fugitive dust on haul roads and at coal handling and storage facilities. On Forest Development Roads (FDR), lessees may perform their share of road maintenance by a commensurate share agreement if a significant degree of traffic is generated that is not related to their activities.
13. Except at specifically approved locations, underground mining operations shall be conducted in such a manner so as to prevent surface subsidence that would: (1) cause the creation of hazardous conditions such as potential escarpment failure and landslides, (2) cause damage to existing surface structures, or (3) damage or alter the flow of perennial streams. The lessee shall provide specific measures for the protection of escarpments, and determine corrective measures to assure that hazardous conditions are not created.
14. In order to avoid surface disturbance on steep canyon slopes and to preclude the need for surface access, all surface breakouts for ventilation tunnels shall be constructed from inside the mine, except at specifically approved locations.
15. If removal of timber is required for clearing of construction sites, etc., such timber shall be removed in accordance with the regulations of the surface management agency.
16. The coal contained within, and authorized for mining under this lease, shall be extracted only by underground mining methods.
17. Existing Forest Service owned or permitted surface improvements will need to be protected, restored, or replaced to provide for the continuance of current land uses.
18. In order to protect big game wintering areas, elk calving and deer fawning areas, sagegrouse strutting areas, and other critical wildlife habitat and/or activities, specific surface uses outside the mine development area may be curtailed during specific periods of the year.
19. Support facilities, structures, equipment, and similar developments will be removed from the lease area within 2 years after the final termination of use of such facilities. This provision shall apply unless the requirement of Section 10 of the lease form is applicable. Disturbed areas and those areas previously occupied by such facilities will be stabilized and rehabilitated, drainages reestablished, and the areas returned to a premining land use.
20. The lessee at the conclusion of the mining operations, or at other times as surface disturbance related to mining may occur, will replace all damaged, disturbed, or displaced corner monuments (section corners, quarter corners, etc.), their accessories and appendages (witness trees, bearing trees, etc.), or restore them to their original condition and location, or at other locations that meet the requirements of the rectangular surveying system. This work shall be conducted at the expense of the lessee by a professional land surveyor registered in the State of Utah and to the standards and guidelines found in the manual of surveying instruction, U.S. Department of the Interior.

21. The lessee at his expense will be responsible to replace any surface water identified for protection that may be lost or adversely affected by mining operations with water from an alternate source in sufficient quantity and quality to maintain existing riparian habitat, fishery habitat, livestock and wildlife use, or other land uses.

22. The lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in the lease. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of the Interior, (2) uses of all existing improvements, such as Forest Development Roads, within and outside the area licensed, permitted or leased by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by a permit/operation plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to:

Forest Supervisor
Manti-LaSal National Forest
599 West Price River Drive
Price, Utah 84501

Telephone No.: 801-637-2817

who is the authorized representative of the Secretary of Agriculture.

ATTACHMENT 2

**Trail Mountain Mine DOGM Permit Renewal
ACT/015/009, Dated 2/21/95**



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

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-358-3940 (Fax)
801-538-5319 (TDD)

February 21, 1995

Mr. Val Payne
Senior Environmental Engineer
PacifiCorp
P.O. Box 1005
Huntington, Utah 84528

Re: Permit Renewal, Trail Mountain Mine, PacifiCorp, ACT/015/009-94C, Folder #3,
Emery County, Utah

Dear Mr. Payne:

Enclosed please find the Decision Document and the renewed permit for the Trail Mountain Mine. Please have the appropriate official at PacifiCorp sign both originals of the renewed permit and return one to the Division.

If you have any questions, please call me or Pamela Grubaugh-Littig.

Very truly yours,

A handwritten signature in black ink, appearing to read 'James W. Carter', written over a large, stylized circular flourish.

James W. Carter
Director

Enclosure

cc: Tom Ehmett, OSM-AFO
Lowell Braxton (w/o enclosure)
Daron Haddock (w/o enclosure)
Pamela Grubaugh-Littig
Joe Helfrich (w/o enclosure)

PERMIT RENEWAL

PacifiCorp
Trail Mountain Mine
ACT/015/009
Emery County, Utah

February 21, 1995

Contents

- * Chronology
- * Findings
- * Permit
- * Affidavit of Publication
- * 510 (c) Memo

CHRONOLOGY

FIVE-YEAR RENEWAL

PacifiCorp
Trail Mountain Mine
ACT/005/009
Emery County, Utah

February 21, 1995

June 21, 1994	Reminder letter sent about five year permit renewal application due to Division on October 21, 1994.
October 21, 1994	Five-year permit renewal application submitted.
September 20, 1994	Affidavit of publication for permit renewal.
December 13, 1994	Determination of Administrative Completeness.
January 10, 1995	Affidavit of publication. Published in the Emery County Progress December 20 and 27, 1994, and January 3 and 10, 1995.
February 20, 1995	AVS system queried for OSMRE, AVS recommendation. The OSMRE recommendation is "Conditional Issue".
February 21, 1995	No adverse comments received. Permit renewed.

FINDINGS

FIVE-YEAR RENEWAL

PacifiCorp
Trail Mountain Mine
ACT/015/009
Emery County, Utah
February 21, 1995

1. Application for a permit renewal was made on October 21, 1994. (R645-303-233.100)
2. The terms and conditions of the existing permit are being satisfactorily met. (R645-303-233.110)
3. The present operation and reclamation operations are in compliance with the environmental protection standards of the State Program. (R645-303.233.120)
4. The requested renewal does not substantially jeopardize the operator's continuing ability to comply with the State Program on the existing permit area. (R645-303-233.130)
5. The permittee has provided evidence of having liability insurance. (Associated Electric and Gas Insurance Services Limited, X0296A1A94) (R645-303-233.140)
6. The permittee has provided evidence that a performance bond is in effect for the operation and will continue in full force and effect for the proposed period of renewal. (Surety Bond issued by ST. Paul Fire and Marine Insurance Co. #400JV3710, in the amount of \$1,000,000) (R645-303-233.150)
7. For the most recent permit term, permit changes ordered by the Division and Notices of Violation requiring a permit change have been incorporated into the permit.


Permit Supervisor


Permit Coordinator


Associate Director


Director

FEDERAL

PERMIT
ACT/015/009

FEBRUARY 21, 1995

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
(801) 538-5340

This permit, ACT/015/009, is issued for the State of Utah by the Utah Division of Oil, Gas and Mining (Division) to:

PacifiCorp
P.O. Box 1005
Huntington, Utah 84528
(801) 653-2312

for the Trail Mountain Mine. PacifiCorp is the lessee of federal coal leases U-49332, U-082996, and UTU-64375, State Mineral Lease ML-22603, and the owner/lessee of certain fee-owned parcels. A Surety Bond is filed with the Division in the amount of \$1,000,000, payable to the State of Utah, Division of Oil, Gas and Mining, and the Office of Surface Mining, Reclamation and Enforcement (OSM). The Division must receive a copy of this permit signed and dated by the permittee.

Sec. 1 STATUTES AND REGULATIONS - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.

Sec. 2 PERMIT AREA - The permittee is authorized to conduct underground coal mining activities on the following described lands within the permit area at the Trail Mountain Mine, situated in the State of Utah, Emery County, and located:

Township 17 South, Range 6 East, SLM

Section 25: S1/2 NW1/4, W1/2 SW1/4, W1/2 E1/2 SW1/4, SW1/4 SE1/4, E1/2 E1/2 SW1/4; Begin at the point of SW corner of NW1/4 SE1/4, thence North 160 Rods, thence East 44 Rods to center of Cottonwood Creek, Southward along creek to a point 76 Rods east of the beginning, thence West 76 Rods to the Point of Beginning.

Section 26: SE1/4 NE1/4, E1/2 SW1/4 NE1/4, E1/2 SE1/4,
E1/2 W1/2 SE1/4, S1/2 SW1/4, W1/2 SW1/4
SE1/4;

Section 27: S1/2 S1/2;

Section 34: All;

Section 35: Lots 1, 2, 3 and 4, S1/2NE1/4, SE1/4, SW1/4,
S1/2 NW1/4; and

Section 36: All.

Township 18 South, Range 6 East, SLM

Section 1: Lots 1-8, S1/2 N1/2, E1/2 NE1/4 SW1/4, E1/2
NW1/4 NE1/4 SW1/4, N1/2 NW1/4 NE1/4
SE1/4, N1/2 NW1/4 SE1/4;

Section 2: Lots 1-8, S1/2 N1/2, N1/2 NE1/4 SW1/4, N1/2
SW1/4 NE1/4 SW1/4, SE1/4 NE1/4 SW1/4,
NW1/4 NE1/4 SE1/4, N1/2 SW1/4 NE1/4
SE1/4, N1/2 NW1/4 SE1/4, N1/2 S1/2 NW1/4
SE1/4; and

Section 3: Lots 1, 2, and 8, NE1/4 SE1/4 NE1/4.

Township 18 South, Range 7 East, SLM

Section 6: Lots 4-7, W1/2 SE1/4 NW1/4, S1/2 E1/2
SW1/4.

This legal description is for the permit area of the Trail Mountain Mine which is approximately 4,045 acres. The permittee is authorized to conduct underground coal mining activities and related surface activities on the foregoing described property subject to the conditions of all applicable conditions, laws and regulations.

Sec. 3 COMPLIANCE - The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.

Sec. 4 PERMIT TERM - This permit is effective on February 21, 1995 and expires on February 21, 2000.

Sec. 5 ASSIGNMENT OF PERMIT RIGHTS - The permit rights may not be transferred, assigned or sold without the prior written approval of the Division Director. Transfer, assignment or sale of permit rights must be

done in accordance with applicable regulations, including but not limited to 30 CFR 740.13{e} and R645-303-300.

Sec. 6 RIGHT OF ENTRY - The permittee shall allow the authorized representative of the Division, including but not limited to inspectors, and representatives of the Office of Surface Mining Reclamation and Enforcement (OSM), without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay to:

- (a) have the rights of entry provided for in 30 CFR 840.12, R645-400-220, 30 CFR 842.13 and R645-400-110;
- (b) be accompanied by private persons for the purpose of conducting an inspection in accordance with R645-400-100 and R645-400-200 when the inspection is in response to an alleged violation reported to the Division by the private person.

Sec. 7 SCOPE OF OPERATIONS - The permittee shall conduct underground coal mining activities only on those lands specifically designated as within the permit area on the maps submitted in the approved plan and approved for the term of the permit and which are subject to the performance bond.

Sec. 8 ENVIRONMENTAL IMPACTS - The permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the permit, including, but not limited to:

- (a) Any accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance;
- (b) immediate implementation of measures necessary to comply; and
- (c) warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

Sec. 9 DISPOSAL OF POLLUTANTS - The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved

Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

Sec. 10 CONDUCT OF OPERATIONS - The permittee shall conduct its operations:

- (a) in accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and
- (b) utilizing methods specified as conditions of the permit by the Division in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 11 EXISTING STRUCTURES - As applicable, the permittee will comply with R645-301 and R645-302 for compliance, modification, or abandonment of existing structures.

Sec. 12 RECLAMATION FEE PAYMENTS - The operator shall pay all reclamation fees required by 30 CFR Part 870 for coal produced under the permit, for sale, transfer or use.

Sec. 13 AUTHORIZED AGENT - The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.

Sec. 14 COMPLIANCE WITH OTHER LAWS - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq,) and the Clean Air Act (42 USC 7401 et seq), UCA 26-11-1 et seq, and UCA 26-13-1 et seq.

Sec. 15 PERMIT RENEWAL - Upon expiration, this permit may be renewed for areas within the boundaries of the existing permit in accordance with the Act, the approved Utah State Program and the Federal Lands Program.

Sec. 16 CULTURAL RESOURCES - If during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify the Division. The Division, after coordination with OSM, shall inform the permittee of

necessary actions required. The permittee shall implement the mitigation measures required by Division within the time frame specified by Division.

Sec. 17 APPEALS - The permittee shall have the right to appeal as provided for under R645-300-200.

Sec. 18 SPECIAL CONDITIONS - There are special conditions associated with this permit, as described in Attachment A.

The above conditions (Secs. 1-18) are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them. These conditions may be revised or amended, in writing, by the mutual consent of the Division and the permittee at any time to adjust to changed conditions or to correct an oversight. The Division may amend these conditions at any time without the consent of the permittee in order to make them consistent with any federal or state statutes and any regulations.

THE STATE OF UTAH

By: _____

Date: _____

I certify that I have read, understand and accept the requirements of this permit and any special conditions attached.

Authorized Representative of the Permittee

Date: _____

ATTACHMENT A

Special Conditions

1. **R645-301-731.200 Water Monitoring** The applicant must monitor quality and quantity of the Star Point aquifer at a point where the flow in the aquifer leaves the permit area. The most likely place to develop this monitoring site is in the area near DH-5 (Figure 6-4). The applicant will be required to develop a well to monitor aquifer parameters, seasonal fluctuation, mining influence and hydrologic tests. This information is requested in accordance with the requirements for water monitoring regulations R645-301-731.200 through R645-301-731.215.
2. Before extending entries to the west beyond the location of hole TMX-6, the operator must drill horizontal holes to determine if significant water could be encountered in the Starpoint/Blackhawk aquifer. If significant water is encountered in the horizontal holes, the operator must stop the advance and notify the Regulatory Authority.
3. Before mining in the vicinity of perennial stream and escarpment buffer zones, the operator must provide data sufficient to justify use of the 15 degree angle-of-draw (measured from the vertical). If the technical data show that an angle-of-draw greater than 15 degrees is expected, the buffer zone must be modified to be consistent with the expected angle-of-draw.
4. The operator shall limit mining operations in the last panel on the eastern boundary of Section 1, T18S, R6E to first mining only in order to leave pillars of sufficient size to prevent caving of the overlying strata.
5. PacifiCorp must notify the Division within 14 days of the decisions of the appeals of outstanding federal violation 93-020-190-05, 1 of 1 and cessation order 94-020-370-002, 1 of 1.

NOTICE

Pacific Power and Light Company, (successor in interest to Utah Power and Light Company), One Utah Center, 201 South Main, Suite 2100, Salt Lake City, Utah 84140-0021, hereby announces its intent to file an application to renew its Coal Mining Permit ACT 015/008 for the Tread Mountain Mine with the Division of Oil, Gas and Mining under the laws of the State of Utah and the Office of Surface Mining.

A copy of the complete application is available for public inspection at the Emery County Recorder's Office, Emery County Courthouse, Castle Dale, Utah 84513.

Written comments on the application should be submitted to the State of Utah, Division of Oil, Gas and Mining, 356 West North Temple, 8 Triad Center, Suite 350, Salt Lake City, Utah 84103-1203. Said comments must be submitted within thirty (30) days from the date of last publication of this notice.

The area to be mined is contained on the U.S.G.S. 7.5 minute "Mahogany Point" quadrangle map. A map depicting the general area of the Tread Mountain Mine is published herewith.

Approximately 4,045 acres are contained in the permit area described as follows:

Township 17 South, Range 8 East, SLB&M

Section 25: E1/2E1/2SW1/4, SW1/4SE1/4, S1/2NW1/4, W1/2SW1/4, W1/2E1/2SW1/4
Beginning at the SW corner of the NW1/4SE1/4, then north 160 rods, then east 44 rods to the centerline of Cottonwood Creek, then south along the centerline to a point 78 rods east of the point of beginning then west 76 rods to the point of beginning.

Section 26: SE1/4NE1/4, E1/2SW1/4NE1/4, E1/2SE1/4, E1/2W1/2SE1/4, S1/2SW1/4, W1/2SW1/4SE1/4

Section 27: S1/2S1/2

Section 34: All

Section 35: Lots 1, 2, 3 and 4
SE1/4NE1/4, E1/2SW1/4NE1/4, E1/2SE1/4, E1/2W1/2SE1/4, W1/2SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2W1/2SE1/4

Section 36: All

Township 18 South, Range 8 East, SLB&M

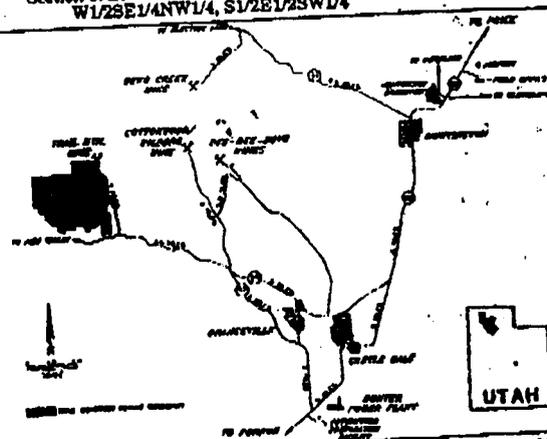
Section 1: Lots 1 thru 8,
S1/2N1/2, E1/2NE1/4SW1/4, E1/2NW1/4NE1/4SW1/4, N1/2NW1/4NE1/4SE1/4, N1/2NW1/4SE1/4

Section 2: Lots 1 thru 8,
S1/2N1/2, N1/2NE1/4SW1/4, N1/2SW1/4NE1/4SW1/4, SE1/4NE1/4SW1/4, NE1/4NE1/4SE1/4, N1/2SW1/4NE1/4SE1/4, N1/2NW1/4SE1/4, N1/2S1/2NW1/4SE1/4

Section 3: Lots 1, 2 and 8,
NE1/4SE1/4NE1/4

Township 18 South, Range 7 East, SLB&M

Section 6: Lots 4 thru 7,
W1/2SE1/4NW1/4, S1/2E1/2SW1/4



Published in the Emery County Progress December 20 and 27, 1994, and January 8 and 10, 1995.

AFFIDAVIT OF PUBLICATION

STATE OF UTAH)

ss.

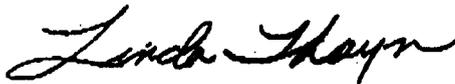
County of Emery,)

I, Kevin Ashby, on oath, say that I am the Publisher of the Emery County Progress, a weekly newspaper of general circulation, published at Castle Dale, State and County aforesaid, and that a certain notice, a true copy of which is hereto attached, was published in the full issue of such newspaper for 4 (Four) consecutive issues, and that the first publication was on the 20th day of December, 1994 and that the last publication of such notice was in the issue of such newspaper dated the 10th day of January, 1995.



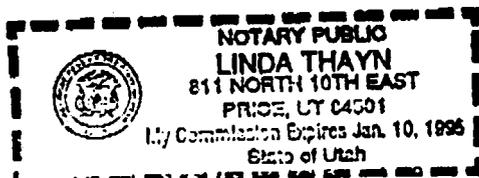
Kevin Ashby - Publisher

Subscribed and sworn to before me this 10th day of January, 1995.



Notary Public My commission expires January 10, 1995 Residing at Price, Utah

Publication fee, \$360.00



NOTICE

Pacific Corp, an Oregon Corporation, (successor in interest to Utah Power and Light Company), One Utah Center, 201 South Main, Suite 2100, Salt Lake City, Utah 84140-0021, hereby announces its intent to file an application to renew its Coal Mining Permit ACT015009 for the Trail Mountain Mine with the Division of Oil, Gas and Mining under the laws of this State of Utah and the Office of Surface Mining.

A copy of the complete application is available for public inspection at the Emery County Recorder's Office, Emery County Courthouse, Castle Dale, Utah 84513.

Written comments on the application should be submitted to the State of Utah, Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203. Said comments must be submitted within thirty (30) days from the date of last publication of this notice.

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Beginning at the SW corner of the NW1/4SE1/4, then north 160 rods, then east 44 rods to the centerline of Cottonwood Creek, then south along the centerline to a point 76 rods east of the point of beginning then west 76 rods to the point of beginning.

Section 26: SE1/4NE1/4, E1/2SW1/4NE1/4, E1/2SE1/4, E1/2W1/2SE1/4, S1/2SW1/4, W1/2SW1/4SE1/4

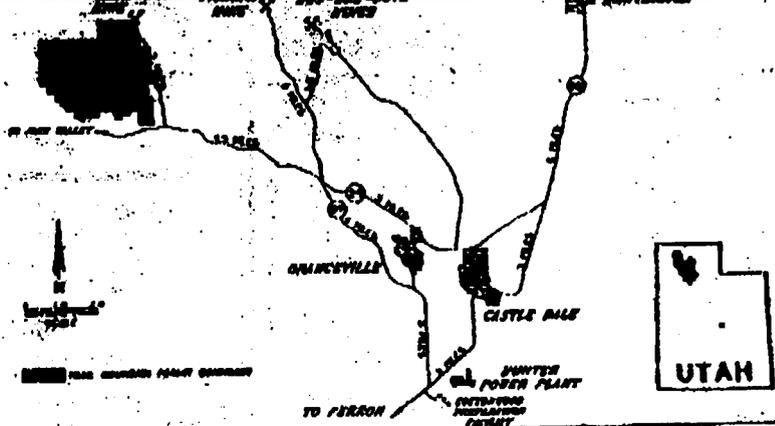
Section 27: S1/2S1/2

Section 34: All

Section 35: Lots 1, 2, 3 and 4
SE1/4NE1/4, E1/2SW1/4NE1/4, E1/2SE1/4, E1/2W1/2SE1/4, W1/2SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2W1/2SE1/4

Section 36: All

Township 18 South, Range 6 East, SLB&M



Published in the Emery County Progress December 20 and 27, 1994, and January 8 and 10, 1995.

ATTACHMENT 3

**USFS Decision Notice / FONSI / Environmental Assessment
for the Underground Accessway and Undemining of Escarpment
Trail Mountain Mine, Dated 3/18/96**

United States
Department of
Agriculture

Forest
Service

Manti-La Sal
National Forest

599 West Price River Dr.
Price, Utah 84501

Reply to: 2820

Date: July 30, 1996

Utah Coal Regulatory Program
Division of Oil, Gas and Mining
Attention: Pamela Grubaugh-Littig
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

RE: Resource Recovery and Protection Plan/Mine Plan Amendment, Trail Mountain
Mine, PacifiCorp, ACT/015/009-96A, Folder #2, Emery County, Utah

Dear Ms. Littig:

We hereby consent (with stipulations) to PacifiCorp's mine plan amendment that proposes extending the Fifth East Longwall Panel to the east and subsidence (with potential minor escarpment failure) the west escarpment of Cottonwood Canyon and to extend full-support development workings under the escarpments outside of the present lease/permit area. This consent is subject to the attached mitigations/stipulations that were listed in the EA (Environmental Assessment) and DN/FONSI (Decision Notice/Finding of No Significant Impact).

No appeals or objections to the proposal were filed within the allotted 45 day appeal period. Extension of the Fifth East panel can be implemented immediately. We are in the process of issuing a Forest Service Special-Use Permit to PacifiCorp authorizing extension of the full-support development working into adjacent unleased areas. Extension of the authorized workings beyond lease boundaries can be implemented and the subject area added to the mine permit area as soon as the special-use permit is issued. We will send you a copy of the permit for your files.

If you have any questions or need additional information, contact us at the Forest Supervisor's Office in Price, Utah.

Sincerely,

/s/ Aaron L. Howe

for
JANETTE S. KAISER
Forest Supervisor

Enclosure

cc:
D-2/3
Penelope Dunn, BLM - Price
Val Payne, PacifiCorp

Conditions of Approval

Excerpted from the Environmental Assessment for the Underground Accessway and Undermining of Escarpment, Trail Mountain Mine, Emery County, Utah (March 1996)

The following stipulations are required of PacifiCorp relative to the implementation of the above referenced project and the preferred alternative (Alternative 2) described in the Environmental Assessment and the Decision Notice/Finding of No Significant Impact.

1. PacifiCorp will be required to post signs approved by the Utah Dept. of Transportation and the Forest Service warning of rockfall hazard and that stopping or parking in the identified portion of Highway 29 is prohibited.
2. PacifiCorp will be required to install prisms to establish survey points on the escarpment above Highway 29 to be monitored for possible rotation or movement as mining occurs in the 5th east panel. The intent is to establish if any movement is occurring, and whether a hazard actually exists.
3. PacifiCorp will be responsible to perform oblique photo monitoring before, during and after mining activities.
4. Known populations of *Hedysarum occidentale var. canone* are to be monitored as mining occurs. If they are being effected the authorized officer(s) are to be notified.
5. The area beneath the escarpment in Cottonwood Canyon is to be signed, alerting recreationalists of the rockfall hazard. Design of the sign will be presented to the Forest Service for approval before being deployed. Sign density will be determined by the authorized officer(s).
6. Any large rocks that may roll into Cottonwood Creek will be reported to the Forest Service and BLM hydrologists. If channel morphology is being threatened, PacifiCorp will be responsible to remove the rock(s) and reestablish the original morphology.
7. The area is to be surveyed for raptor nests prior to mining commencing under the escarpment. If nests are encountered, work that could cause further subsidence, leading to escarpment failure, is to be halted until mitigation measures can be accomplished as determined by the Utah DWR and the USFWS.
8. PacifiCorp must conduct modelling (3-dimensional finite element or equivalent) as recommended by PacifiCorp and Dr. W.G. Pariseau (Letter to Forest Service from PacifiCorp, dated February 6, 1991; Re: South Lease Escarpment Study Geotechnical Update) to develop a workable predictive model of the potential for mining induced subsidence to cause escarpment failures. The model for the specific area of proposed subsidence must be run with sufficient detail to project a potential level of escarpment failure and must be adjusted following actual mining to best emulate the actual level of escarpment failure that occurred. A final report must then be submitted to BLM and the Forest Service that describes the prediction made, failure observed, how well the prediction conformed to actual failures, and how the model was adjusted to best conform to actual conditions on the ground and the level of failure observed. An independent/qualified scientist acceptable to the BLM and Forest Service must oversee model development.

ENVIRONMENTAL ASSESSMENT

for the

Underground Accessway
and
Undermining of Escarpment

Trail Mountain Mine

Emery County, Utah

USDA, Forest Service, Region 4
Manti-La Sal National Forest
Ferron/Price Ranger District

Responsible Officials: Janette S. Kaiser, Forest Supervisor
USDA, Forest Service
Manti-LaSal National Forest
599 West Price River Drive
Price, Utah 84501

and

Mark Bailey, Area Manager
Price River Resource Area
125 S. 600 W
Price, Utah 84501

Cooperating Agency: Office of Surface Mining
Reclamation and Enforcement
1999 Broadway, Suite 332
Denver, Colorado 80202

For Further Information Contact: Jeff DeFreest, District Geologist
Ferron/Price Ranger District
Manti-La Sal National Forest
599 W. Price River Drive
Price, Utah 84501

Environmental Assessment
Underground Accessway
and
Undermining of Escarpment

Trail Mountain Mine

I. PURPOSE AND NEED FOR ACTION

A. Introduction

PacifiCorp has submitted a revised Resource Recovery and Protection Plan and Mine Plan Amendment to increase coal recovery at their Trail Mountain Mine on Trail Mountain, Emery County. The proposal includes extending the 4th and 5th East longwall panels to the east under the west canyon cliff or escarpment of Cottonwood Canyon, which will cause subsidence, and potentially trigger rock falls or slides. They have also applied for a Forest Service special-use permit to allow them to drive underground accessways under unleased National Forest System lands to allow increased coal recovery in longwall panels planned within the mine permit area (leased lands). Map A shows the respective locations.

B. Decision to be made

The Forest Supervisor, Manti-La Sal National Forest, must decide whether or not to consent to the Resource Recovery and Protection Plan and resulting Mine Plan amendment by the Bureau of Land Management and Utah Division of Oil, Gas and Mining under the Mineral Leasing Act of 1920, as amended; Coal Leasing Amendments Act of 1975; and Surface Mining Control and Reclamation Act of 1977. This involves the granting of an exception to a stipulation attached to the lease. Additionally, the Forest Supervisor must decide whether or not to issue a Forest Service special-use permit for the proposed underground accessways under the Federal Land Policy and Management Act of 1976.

C. Description of the Land

Cottonwood Canyon is a drainage between Trail Mountain and East Mountain. The project area is within Federal Coal Lease U-64375 on the southeast flank of Trail Mountain.

D. Coal Mining History and Relationship to Adjacent Workings

Lease U-64375 is included within the permit area for the Trail Mountain Mine. Mining at what is now known as the Trail Mountain Mine was initiated in 1898, becoming the Johnson Mines in 1909, which operated 3 mines through 1948. In 1946, 3 additional mines were opened in the vicinity, and activity at the Trail Mountain Mine continued through 1967. After a 10 year shutdown, it was reopened under the ownership of Mr. John Bell. The mine was then purchased by the Fetterolf Group in 1979, and operated until it was sold to Natomas Trail Mountain Coal Co. in 1981. The property was subsequently

purchased and operated by: Diamond Shamrock, Arch Minerals Corp, Beaver Creek Coal Co, and finally purchased by PacifiCorp in 1992. It is currently owned and operated by PacifiCorp and its subsidiary company, Energy West.

Underground mining facilities within the lease include main entries for access within the Trail Mountain Mine. There are no surface facilities. All mining within the lease has been within the Hiawatha seam.

The Forest Service prepared an Environmental Analysis for the lease, U-64375, but the surface facilities are on fee (private) land.

Operations on this lease have been authorized under the approved Trail Mountain Mine Mining and Reclamation Plan (MRP). Subsidence and hydrologic monitoring are being conducted under the MRP. These documents are contained in the Forest Service project files and can be referred to for additional information.

E. Scoping

The project scoping was initiated on January 19, 1996. Scoping letters were sent to identified interested parties, a scoping package was routed through the Supervisor's Office and Ferron-Price Ranger District, and a legal notice was submitted for publication in the Sun Advocate in their January 23 issue.

Notice of preparation of this environmental assessment was printed in the Sun Advocate newspaper. Letters were also sent to the individuals and organizations listed in the project file. These concerns have been considered during preparation of this document. Intensity of public interest was relatively low, since only seven letters were received, and of those, four were from government agencies. Copies of these letters are included in the project file.

Three people interested in or affected by the proposed action responded by contacting the Ranger with their concerns.

Mr. Kenneth May, Vice President and General Manager for Southern Utah Fuel Co, commented on his company's success in undermining escarpments with only minor impact to similar terrain at the southern end of the Wasatch Plateau on their Quitchupah tract.

Mr. Eugene Johansen, Chairman, Emery Water Conservancy District and Mr. Kent Petersen, Chairman, Emery County Board of Commissioners, shared concerns over water issues which include:

What effect will this mining operation have on water in Joe's Valley Reservoir?

Will the mine operators be held responsible for replacement of culinary, domestic, wildlife, livestock, and agricultural waters?



Location Map

EA for the Underground Accessway and Undermining of Escarpment, Trail Mtn Mine

March 1996

Four agencies interested in or affected by the proposed action responded by contacting the Ranger with issues and concerns.

The Utah Division of Wildlife Resources had comments addressing raptor nesting habitat, though no nests are recorded in the potentially affected area. They requested that if nests were encountered, that we require work to be halted until mitigation measures could be accomplished as determined by their agency in cooperation with the USFWS.

The Utah Division of Oil, Gas, and Mining commented that the proposed mining would require an amendment to the current mining and reclamation plan.

The Utah Department of Transportation expressed concern over the potential rockfall hazard to motorists on SR-29 (road to Joe's Valley Reservoir).

The Office of Surface Mining requested an opportunity to participate in the analysis as a cooperating agency, and have the opportunity to review and provide comments on preliminary NEPA documents prepared for this project.

In addition to the above concerns, the following concerns/issues were identified by the ID Team for evaluation in this environmental assessment.

Subsidence of the steep canyon escarpment could dislodge sections of the Castlegate Sandstone outcrop.

Rockfalls could destroy vegetation on the canyon slope. Sensitive plant species *Hedysarum Occidentalis* var. *canone* occurs along the canyon slope.

Rockfalls could reach the Cottonwood Canyon road presenting a potential hazard to motorists, hunters, and rock climbers in the area, and damage road facilities.

Rockfalls may alter the existing visual landscape as viewed from the Cottonwood Canyon Road, State Hwys. 29 and 10, and the town of Orangeville.

Rockfalls could destroy vegetation along the canyon slope, resulting in an increase in sediment in Cottonwood Canyon. Large rocks/boulders rolling downslope into the creek could change stream channel morphology.

Protection of escarpment integrity could cause loss of recoverable coal reserves and could affect maximum economic recovery and result in loss of royalties to the Federal government.

F. Issues

On March 1, 1996, the Forest Supervisor approved the following issues. Each issue statement includes an evaluation criteria or method to measure responsiveness (effects) to the issue. The following significant issues (40 CFR 1500.4 (g), FSH 1909.15 12.3) will be used to focus the environmental analysis, develop alternatives to the proposed action, and develop measures to mitigate and monitor anticipated environmental effects.

- A. Potential rockfall hazard to motorists on SR-29 (road to Joe's Valley Reservoir).

Evaluation Criteria

PacifiCorp has applied the Colorado Rockfall Simulation Program. The simulation shows that a 20 foot diameter boulder dislodged from the Castlegate Sandstone could roll down to the road. Risk (probability of failure) and potential mitigation measures will be discussed with the UDOT engineer.

- B. Rockfalls may alter the existing visual landscape as viewed from the Cottonwood Canyon Road, State Hwys. 29 and 10, and the town of Orangeville.

Evaluation Criteria

The landscape architect evaluated the area potentially subject to failure relative to forest plan visual quality objectives (VQO). The predicted area of the potential failure lies primarily in an area designated as modification. BLM has a similar visual constraint called VRM Class III. An edge of the potential failure at the south end of the proposed project area on Forest Service lands may lie within an area designated as retention. Given the anticipated small magnitude of this scar, and its position relative to highway 29, it will not be noticeable from this sensitive corridor. Distant views from Orangeville and Highway 10 will remain natural in appearance.

The potential failure area will be analyzed considering impacts to the visual elements: form, color, texture, and line.

- C. Protection of escarpment integrity could cause loss of recoverable coal reserves and could affect Maximum Economic Recovery and result in loss of royalties to the Federal government.

Evaluation Criteria

The BLM is preparing a an analysis of the coal that would be bypassed and the associated value of lost royalties.

- D. Threatened, Endangered, or Sensitive wildlife and plant species (FSM 2670)

Rockfalls destroy vegetation on the canyon slope. Sensitive plant species *Hedysarum Occidentalis* var. *canone* occurs along the canyon slope.

Evaluation Criteria
Individuals and habitat effected.

ISSUES RAISED BUT NOT ANALYZED IN FURTHER DETAIL

These issues were either resolved through minimal analysis, mitigation, or found to be outside of the scope of this analysis.

E. Heritage resources (FSM 2360)

The proposed action may impact existing or eligible National Historic Register sites. (project file)

Evaluation Criteria
The area has been surveyed, and no known sites have been identified.

F. Subsidence of the steep canyon escarpment could dislodge sections of the Castlegate Ss. outcrop.

Evaluation Criteria
Rockfall in itself was decided not to be an issue, but effects related to rockfall were analyzed in other issue statements (A, B, G, H).

G. Rockfalls could reach the Cottonwood Canyon road presenting a potential hazard to motorists, hunters, and rock climbers in the area and damage road facilities.

Evaluation Criteria
The Colorado Rockfall Simulation Program (CRSP) was applied to determine if rocks of a given size would roll on the existing slope to the road. The model was calibrated to a rock slide associated with mining in similar geology to establish its validity and to establish the rock size to run the model.

Data provided to the Forest Service by PacifiCorp (Trail Mtn. Mine) suggests that rocks dislodged from the Castlegate Escarpment would not roll as far as the Cottonwood Canyon road, primarily because they would be funnelled into local topography, and then not have enough kinetic energy remaining to continue down the main slope.

Lastly there is some potential for rockfalls reaching areas traditionally used by rock climbers, hunters, and other recreationalists, at the base of the escarpment on the Cottonwood Canyon side.

- H. Rockfalls could destroy vegetation along the canyon slope, increase sediment in Cottonwood Canyon and large rocks/boulders could change stream channel morphology in Cottonwood Creek.

Evaluation Criteria

The CRSP predicts few rocks would roll that far given the terrain. Since the BLM is the land management agency for the potentially impacted area, their hydrologist was consulted, the sediment was expected to increase only slightly, and a mitigation measure was suggested for the large boulder concern. If any rocks do roll as far as the creek, that may cause a diversion or change in channel morphology, the mining company will be required to remove it.

The ID team has determined that the approval of the proposed action will not cause significant adverse impacts on: wetlands, floodplains, and alluvial valley floors.

- I. Mr. Kenneth May, Vice President and General Manager for Southern Utah Fuel Co, commented on his company's success in undermining escarpments with only minor impact to similar terrain at the southern end of the Wasatch Plateau, at their Quitchupah tract.

Evaluation Criteria

These comments were considered in conjunction with Forest Service observations made in the Quitchupah area. The evaluation of the minor effects is a valid but subjective in nature.

- J. Mr. Eugene Johansen, Chairman, Emery Water Conservancy District and Mr. Kent Petersen, Chairman, Emery County Board of Commissioners, shared concerns over water issues. What effect will this mining operation have on water in Joe's Valley Reservoir? Will the mine operators be held responsible for replacement of culinary, domestic, wildlife, livestock, and agricultural waters?

Evaluation Criteria

A phone contact was made with Jay Humphrey of the Emery Water Conservancy District on Friday February 23, 1996 to discuss their concerns. He indicated that Mr Johansen did not address the proposals specifically suggested in the scoping letter. Mr. Humphrey acknowledged that their issues relative to the proposal at hand were addressed in the EA for the lease tract originally done in 1990. Mr. Humphrey did however express concern over the Lease By Application also proposed by PacifiCorp, for Trail Mtn Mine, and its potential effects on Joe's Valley Reservoir and local water sources. He wished to be informed of any action taken on the LBA.

- K. The Utah Division of Wildlife Resources had comments addressing raptor nesting habitat, though no nests are recorded in the potentially affected area. They requested that if nests were

encountered, that we require work to be halted until mitigation measures could be accomplished as determined by their agency in cooperation with the USFWS.

Evaluation Criteria

The mine conducts helicopter surveys for raptors and nests annually, as committed to in their Mining and Reclamation Plan.

- L. The Utah Division of Oil, Gas, and Mining commented that the proposed mining would require an amendment to the current mining and reclamation plan (MRP).

Evaluation Criteria

This is a question of process and not an environmental issue requiring disclosure. All applicable State and Federal law and regulation must be met prior to implementation. The operator will be required to apply for amendments to their currently approved MRP.

- M. The Office of Surface Mining requested an opportunity to review and provide comments on preliminary NEPA documents prepared for this project.

Evaluation Criteria

This is a question of process and not an environmental issue requiring disclosure. The OSM is a cooperative agency.

- N. Prime farmland, rangeland, and timberland could be impacted (USDA land use policy DR 9500-3 and FSH 1909.15, section 65.2).

Evaluation Criteria

The project area does not contain prime farmland, rangeland, or timberland as defined by Section 65.2 (Forest Plan, page II-57).

G. Federal Permits, Licenses, etc.

Leasing and development are under the authority of the following authorizing actions: The Mineral Leasing Act of February 25, 1920, as amended; the Federal Land Policy and Management Act (FLPMA) of 1976; the Surface Mining Control and Reclamation Act (SMCRA) of 1977; the Multiple Minerals Development Act of August 4, 1977; the Federal Coal Leasing Amendments Act of 1976, as amended; regulations: Title 43 CFR Group 3400, and Title 30 CFR Group 700; and the Manti-La Sal National Forest Land and Resource Management Plan (FLRMP) and Final Environmental Impact Statement (FEIS), 1986.

The Trail Mountain Mine has been permitted under the Surface Mining Control and Reclamation Act of 1977 by the Office of Surface Mining, Reclamation and Enforcement and the Utah Division of Oil, Gas and Mining. Other required permits have been secured by PacifiCorp under their approved Mining and Reclamation Plan.

If either alternative 2 or 3 are approved, the Forest Service would issue a Special Use Permit for the underground accessway, and DOGM would need to approve the amendment to the Mining and Reclamation Plan.

II. DESCRIPTION OF ALTERNATIVES

Based on internal and public input the Line Officer approved the following alternatives. Each alternative addresses aspects of the issues to sharply define issues and potential effects and provide a full range of alternatives. Alternatives include mitigation and monitoring to address the issues and anticipated environmental effects.

ALTERNATIVES CONSIDERED IN DETAIL

Alternative 1

Forest Service would deny consent and remain consistent with the existing lease stipulations and the approved MRP. Alternative 1 addresses the need to provide a "No Action" alternative (40 CFR 1502.14). The operator would not be permitted to mine under the escarpment, nor would the special use permit for the underground accessway be granted.

No mitigation measures or monitoring would be required as part of this alternative, beyond what is already in the mining and reclamation plan.

Alternative 2 (Preferred Alternative)

Forest Service consent to subsidence of the escarpment as proposed by PacifiCorp with an exception to the lease stipulation, and Forest Service approval of the special use permit for the underground accessway subject to conditions of approval to mitigate impacts. The Bureau of Land Management and Utah Department of Oil, Gas, and Mining would approve PacifiCorp's amended R2P2 and mining plan respectively, with Forest Service stipulations.

Mitigation

Issues A, B, D, G, H, and K are highlighted in Alternative 2. Mitigation measures designed to address these issues and lessen potential adverse environmental effects are described below.

- A. The Utah Department of Transportation expressed concern over the potential rockfall hazard to motorists on SR-29 (road to Joe's Valley Reservoir).

PacifiCorp will be required to post signs approved by the Utah Dept of Transportation and the Forest Service warning of rockfall hazard and that stopping or parking in the identified portion of Highway 29 is prohibited.

PacifiCorp will be required to install prisms to establish survey points on the escarpment above Highway 29 to be monitored for possible rotation or movement as mining occurs in the 5th east

panel. The intent is to establish if any movement is occurring, and whether a hazard actually exists.

PacifiCorp must conduct modelling (3-dimensional finite element or equivalent) as recommended by PacifiCorp and Dr. W.G. Pariseau (Letter to Forest Service from PacifiCorp, dated February 6, 1991; Re: South Lease Escarpment Study Geotechnical Update) to develop a workable predictive model of the potential for mining induced subsidence to cause escarpment failures. The model for the specific area of proposed subsidence must be run with sufficient detail to project a potential level of escarpment failure and must be adjusted following actual mining to best emulate the actual level of escarpment failure that occurred. A final report must then be submitted to BLM and the Forest Service that describes the prediction made, failure observed, how well the prediction conformed to actual failures, and how the model was adjusted to best conform to actual conditions on the ground and the level of failure observed. An independent/qualified scientist acceptable to the BLM and Forest Service must oversee model development.

- B. Rockfalls may alter the existing visual landscape as viewed from the Cottonwood Canyon Road, State Hwys. 29 and 10, and the town of Orangeville.

PacifiCorp will be responsible to perform oblique photo monitoring before, during and after mining activities.

- D. Threatened, Endangered, or Sensitive wildlife and plant species (FSM 2670)

Known populations of Hedysarum occidentale var. canon are to be monitored as mining occurs. If they are being effected the authorized officer(s) are to be notified.

- G. Rockfalls could reach the Cottonwood Canyon road presenting a potential hazard to motorists, hunters, and rock climbers in the area and damage road facilities.

The area beneath the escarpment in Cottonwood Canyon is to be signed, alerting recreationalists of the rockfall hazard. Design of the sign will be presented to the Forest Service for approval before being deployed. Sign density will be determined by the authorized officer(s).

- H. Rockfalls could destroy vegetation along the canyon slope, increase sediment in Cottonwood Canyon and large rocks/boulders could change stream channel morphology in Cottonwood Creek.

Any large rocks that may roll into Cottonwood Creek will be reported to the Forest Service and BLM hydrologists. If channel morphology is being threatened, PacifiCorp will be responsible to remove the rock(s) and reestablish the original morphology.

- K. The Utah Division of Wildlife Resources had comments addressing raptor nesting habitat, though no nests are recorded in the potentially affected area. They requested that if nests were encountered, that we require work to be halted until mitigation measures could be accomplished as determined by their agency in cooperation with the USFWS.

The area is to be surveyed for raptor nests prior to mining commencing under the escarpment. If nests are encountered, work that could cause further subsidence, leading to escarpment failure, is to be halted until mitigation measures can be accomplished as determined by the Utah DWR and the USFWS.

Monitoring

Implementation effectiveness monitoring will be performed to determine if the mitigation measures are effective and assure the desired results are achieved.

Alternative 3

Forest Service approves only the special use permit for the underground accessway, with conditions of approval. PacifiCorp would apply for a mine plan amendment and DOGM will likely approve the amendment. This alternative would provide access to otherwise lost coal reserves.

The two longwall panels proposed to extend underneath the escarpment will need to be shortened, and there would be a loss of recoverable coal. Subsidence of the escarpment would not be permitted, and therefore the issues relating to escarpment failure: A, B, D, E, F, G, H, and K would not apply.

No special mitigation measures or monitoring would be required as part of this alternative, beyond what is already in the mining and reclamation plan.

ALTERNATIVES CONSIDERED BUT NOT GIVEN DETAILED STUDY

Alternative 4

Forest Service consent to subsidence of the escarpment as proposed by PacifiCorp, and Forest Service approval of the special use permit for the underground accessway. The Bureau of Land Management would likely approve modification of the resource recovery and protection plan (R2P2) and the Utah Department of Oil, Gas, and Mining would approve PacifiCorp's amended mining plan to achieve maximum economic recovery, and the escarpment would be undermined with a potential for localized failures.

No requirements, constraints, or mitigations would be added to those already committed to in the proposal. No additional monitoring beyond that already committed to in the approved mining and reclamation plan would be required as part of this alternative.

Alternative 5

Forest Service approves only the undermining of the escarpment, allowing for the potential failure of the escarpment. This would permit the added length on the 2 longwall panels proposed, providing for coal recovery. The special use permit for the underground right of way would be denied in this alternative, leaving some coal reserves inaccessible.

This alternative was not considered in detail because it provides no advantage over the preferred alternative.

COMPARISON OF ALTERNATIVES

The following chart has been generated to display a comparison of alternatives relative to the identified issues and concerns. The issues and concerns are listed as elements. The rating system uses high, moderate, or low to display the level of risk to public safety; tons of coal and associated royalties for socio-economics; and whether or not it meets the forest plan and BLM visual standards. Each element is discussed in greater detail in Section III, Description of Affected Environment and Section IV, Environmental Consequences (relative to each alternative).

<u>Resource Element</u>	<u>Issue Reference</u>	<u>Alternatives</u>		
		1	2	3
Public Safety Risk	A	Low	Moderate	Low
Meets VQO	B	Yes	Yes	Yes
Socio-Economics	C			
Additional Recoverable Coal (million tons)		0	1.9	1.5
Additional Royalties (million dollars)		0	3.0	2.4
Meets Maximum Economic Recovery		No	Yes	No
Effect on TE&S Plants		None	None	None
Effect on TE&S Wildlife		None	May	None

III. DESCRIPTION OF THE AFFECTED ENVIRONMENT

Affected Environment Relative to Issues

Public Safety

Rockfalls are a frequent natural occurrence in the vicinity of the Castlegate Sandstone escarpment. Occasionally rocks fall and roll onto and across the Cottonwood Canyon Road and the Straight Canyon Road (State Highway 29). These natural rockfalls are commonly triggered by natural processes such as freeze-thaw cycles, run-off, and earthquakes. Mining induced subsidence of the escarpment or land immediately adjacent to it could also contribute to rockfalls.

Visual Resources

The characteristic landform of this area is steep narrow canyons of major escarpments. Flowing parallel to FDR 040 is Cottonwood Creek

which has entrenched this particular canyon. This perennial stream is bordered by a narrow riparian corridor interspersed with cottonwoods. Thin rocky soils and a relatively arid climate have resulted in an open pinyon-juniper community established primarily on the less steep slopes to the east above the creek. These coarsely textured/vegetated slopes end abruptly at the base of the dominating Castlegate Sandstone outcrop. Soil colors are light brown to tan, consistent with this eroding parent sandstone material above.

The Manti-La Sal National Forest Land and Resource Management Plan (LRMP) has assigned a Visual Quality Objective to each area of the Forest reflecting the desired management emphasis of the specific area. The BLM has assigned similar objectives, known as Visual Resource Management Classes, to the lands they manage. Some of those objectives assigned by the LRMP allow a noticeable degree of change from the existing condition as determined during the visual assessment conducted in 1986 for subsequent use in Forest management activities and planning. This flexibility was incorporated into the Forest Plan to facilitate Forest management goals.

The term Visual Quality Objective refers to the degree of acceptable visual alteration of the Landscape and may be defined as follows: A desired level of scenic excellence based on physical and sociological characteristics of an area. Typically, more stringent VQO's are incorporated to protect the most highly visible and most frequently seen areas that have the greatest amount of variety in vegetation and other features which occur naturally.

After comparing the specific limits of the project area with the Forest Plan visual quality map, it was determined that any area of potential visual impact has been designated as Modification, on Forest Service lands, and VRM Class III on the BLM lands.

Under the less stringent VQO of Modification (or VRM Class III), management activities may visually dominate the original characteristic landscape. However, activities of vegetative and landform alteration must borrow from naturally established form, line, color, or texture so completely and at such a scale that its visual characteristics are those of natural occurrences within the surrounding area or character type. Additional parts of these activities such as structures and roads must remain visually subordinate to the proposed composition. Reduction in form, line, color, and texture should generally be accomplished in the first year.

In summary; this broad objective allows for most forms of management activity including those which are visually obtrusive, however the activity (especially associated roads and structures) must be designed to fit the context of the natural surroundings.

It should be noted that scenery is an important natural resource and recreational element in parts of the forest immediately adjacent to this area. It is primarily through their visual sense that most visitors perceive the Forest and its interrelated components. The project area -- although designated in the Forest Plan as Modification

-- still has high scenic value. Part of the public appeal of the landscape found in this area stems from the viewing opportunities associated with these Castlegate Sandstone escarpments. This escarpment is readily viewed from FDR 040, which travels up Cottonwood Canyon and serves as a gateway to the forest for many recreationists.

Socio-Economics

The Trail Mountain Mine is currently operating in the project area and produces 3.5 - 4 million tons per year. Employment is a total of 275 people; 215 of which are miners and 60 individuals in management.

The BLM has determined that the current Resource Recovery and Protection Plan (R2P2) does not provide for maximum economic recovery.

TE&S Plants

No listed threatened or endangered plant species are known to occur on the areas subject to escarpment failure. However, Hedysarum occidentale var. canon, a proposed threatened plant species, does have limited habitat in Cottonwood Canyon. (project file)

I. TE&S Wildlife

Several non-game mammals, birds, and reptile species inhabit the lease. These species have apparently somewhat adapted to mining activities. There is also raptor habitat in the escarpment, though there are no known nests on the portion likely to be failed. There are no threatened or endangered or sensitive wildlife species occupying the project area. (project file)

IV. ENVIRONMENTAL CONSEQUENCES

The effects of the mining operation were assessed in the Environmental Assessment for Beaver Creek Coal Co. Coal Lease Application UTU-64375 Trail Mountain Tract (4/90). This document discusses the existing and potential effects from surface facilities and mining induced subsidence. This analysis was done assuming conventional, room and pillar mining operations however. No subsidence of the escarpment was to be permitted, as stipulated in the lease. Mining operations were permitted and are regulated under the Surface Mining Control and Reclamation Act of 1977 and associated Federal and State regulations and programs. Facilities have been designed and constructed in accordance with required standards. Monitoring has shown that the effects of mining, to date, are consistent with those predicted in the referenced environmental documents.

Below, each alternative is analyzed relative to the elements developed from the issues for this environmental assessment.

A. Alternative 1 - No Action Alternative, Forest Service denies consent.

1. Direct and Indirect Effects

a. Public Safety

Mining induced subsidence would not be permitted and therefore there would be no mining induced failure.

b. Visual Resources

Mining induced subsidence would not be permitted and therefore there would be no mining induced failure. Natural rockslides would continue to occur.

c. Socio-Economics

Coal reserves would be bypassed. This alternative will sterilize approximately 1.9 million tons of coal with a resulting loss of 3 million dollars in royalties. Additionally, the life of the Trail Mountain Mine will be shortened by approximately 6 months.

d. TE&S Plants

Mining induced subsidence would not be permitted and therefore potential for escarpment failure would be no greater than already predicted in the EA for the lease, resulting in no change to the effect on Threatened, Endangered, and Sensitive Plants. (project file)

e. TE&S Wildlife

Mining induced subsidence would not be permitted and therefore potential for escarpment failure would be no greater than already predicted in the EA for the lease, resulting in no change to the effect on Threatened, Endangered, and Sensitive Wildlife. (project file)

2. Cumulative Effects

Historically man's activities in the lease area have included livestock grazing, recreational use, and coal production, which have resulted in changes in the topography, vegetation, and erosion. Cumulative effects resulting from mining coal could include the effects from subsidence and the human activity from continued operations as it exists on this lease and adjacent leases. PacifiCorp is monitoring the impacts of mining on the permit area as part of the Mining and Reclamation Plan. To date, the results of monitoring in the permit area indicate that no significant impacts to surface resources have occurred from mining. There would be no change in the existing condition.

B. Alternative 2 - Forest Service consent to subsidence of the escarpment and approval of the special use permit for the underground accessway.

1. Direct and Indirect Effects

a. Public Safety

Mining induced subsidence would be permitted and therefore potential for escarpment failure would exist. The Colorado Rockfall Simulation Program (CRSP) and the support data provided by PacifiCorp does not show any rockfall reaching the Cottonwood Canyon Road (FDR 040), however, there is a remote chance of material disturbed by mining activity being dislodged and threatening the Straight Canyon Road (Hwy 29).

The CRSP was calibrated in PacifiCorp's analysis to a failure in similar geology and terrain in nearby Newberry Canyon, associated with their Cottonwood-Wilberg Mine complex. As part of their analysis, they observed the material of the Castlegate Sandstone that had failed and then modeled it to see what size material might be expected to fail in the subject mine plan amendment area.

All of the CRSP applications run for the Cottonwood Canyon side of the escarpment indicated any rock of the expected size would be funnelled in and trapped by local topography.

The escarpment on the Straight Canyon side, above State Hwy 29, is outside of the angle-of-draw by 125 feet. An initial run of the CRSP was done however to determine if any part of the escarpment subject to the strain of subsidence within the angle of draw might cause a rockfall. The CRSP model suggested that a spherical rock of 20' diameter could make it to the highway. Additional CRSP applications were requested and PacifiCorp analyzed their model calibration again. They analyzed the failure at Newberry Canyon, and found that at surveyed subsidence points, failure only occurred at points as mining occurred directly beneath the escarpment. The determination was made that the potential for any material to break loose was extremely remote. Mitigation measures will be required.

b. Visual Resources

Escarpment failure could visually affect lands on or near the east wall of Cottonwood Canyon. This potential visual effect is predicted to be consistent with other common naturally occurring failures viewed throughout this and all other similarly formed canyons. Accordingly, noticeable visual effect to the casual Forest visitor -- if any -- will fall well within the parameters outlined for the VQO of Modification.

Due to natural consistency in form, line, color and texture; and considering other aesthetic variables, i.e., distance from the viewer, angle and duration of view, and scale of the potential failure. It is also predicted with a reasonable level of confidence that failure associated views

from either federal, state, private and municipal lands, and transportation corridors will remain non-objectionable.

However, regardless of the small potential for obtrusive effect due to escarpment failure, the public's aesthetic expectations concerning this and other project related activity need to be taken into account. Fencing, barriers, berms, etc. -- although not planned for use within the Forest boundary -- will be in conflicting juxtaposition to the strong visual elements which define this landscape. This is particularly true for Straight Canyon. This primary travel corridor is highly scenic (Retention within the Forest boundary) and insensitively placed safety improvements can conspicuously advertize human-caused change. Although safety is of paramount concern, care should be taken to screen and later remove these obtrusive structures to the best visual advantage. The visual effect of escarpment failure is anticipated to be negligible when compared to that associated with these structures.

c. Socio-Economics

Recoverable coal reserves would be mined, and be consistent with the BLM's maximum economic recovery mandate. This alternative would provide approximately 1.9 million tons of coal with a resulting 3 million dollars in royalties. Additionally, the life of the Trail Mountain Mine will be extended by approximately 6 months, providing jobs for the employees of the mine as well as the people in the support industries.

d. TE&S Plants

Mining induced subsidence would be permitted and therefore potential for escarpment failure would exist. There is potential for destruction of habitat for Hedysarum occidentale var. canon. Known populations are protected from direct impact by topography. (project file)

e. TE&S Wildlife

Mining induced subsidence would be permitted and therefore potential for escarpment failure would exist. Potential nesting habitat could be lost for raptors. No known nests exist, and PacifiCorp performs a helicopter raptor survey with the Utah Division of Wildlife Resources.

2. Cumulative Effects

Similar to the effects in Alternative 1, except that the magnitude of impacts could be increased. There will be an increase in erosion of the Castlegate Sandstone escarpment, primarily accelerated by the stresses placed on the rock by subsidence.

C. Alternative 3 - Forest Service approval of the special use permit for the underground accessway only

The direct, indirect, and cumulative effects of alternative 3 would be essentially the same as in the No Action alternative (Alternative 1) for the public safety, visual resources, and TE&S species issues.

1. Direct and Indirect Effects

c. Socio-Economics

Coal reserves of 400,000 tons would be bypassed, with an associated loss in royalties of \$640,000. This alternative does not meet maximum economic recovery, but will isolate less coal than alternative 1, but not provide as much coal as alternative 2. Mine life will be shortened slightly.

V. INTERDISCIPLINARY TEAM

The joint Bureau of Land Management and Forest Service Interdisciplinary Team consisted of the following personnel:

Jeff DeFreest	Geologist (I.D. Team Leader)
George Tetrault	Mining Engineer
Wayne Ludington	Wildlife Biologist
Bob Thompson	Botanist
Kerry Flood	Hydrologist
Blaine Miller	Archeologist
Kevin Draper	Landscape Architect

APPENDIX A
BIOLOGICAL SUPPORT DOCUMENTS

MANTI-LA SAL NATIONAL FOREST

BIOLOGICAL ASSESSMENT
FOR
FEDERALLY LISTED PLANT AND ANIMAL SPECIES
FOR
TRAIL MOUNTAIN MINE PLAN AMENDMENT

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I. Introduction

The purpose of this biological assessment is to evaluate the potential impacts of modifying the Trail Mountain Mine Plan to allow longwall mining under the escarpment to those plant and animal species and their habitats Federally listed as Threatened, Endangered, and Proposed.

The Endangered Species Act of 1973 (PL 93-205), as amended) require federal agencies to insure that any activities they authorize, fund, or carry out, did not jeopardize the continued existence of any wildlife species federally listed as Threatened or Endangered (Section 7). This biological evaluation is an analysis of which Threatened, Endangered, or Proposed species may occur in the project area and whether any impacts on those species are anticipated. This biological evaluation is prepared using direction from the Forest Service manual 2672.4.

II. Proposed Action

Forest Service consent to subsidence of the escarpment as proposed by PacificCorp, and Forest Service approval of the special use permit for the under ground accessway subject to conditions of approval to mitigate impacts. The Bureau of Land Management and Utah Department of Oil, Gas, and Mining will approve PacificCorp's amended R2P2 and mining plan respectively, with Forest Service stipulations.

Further details can be found in the Environmental Assessment (EA) for the project. The EA will evaluate current resource and management information.

III. Species Potentially Impacted by The Project

Known or Suspected Threatened and Endangered, Plants and Animals on the Trail Mountain Mine Lease:

Species*	Classification
Bald Eagle (<u>Haliaeetus leucocephalus</u>)	Threatened
Peregrine Falcon (<u>Falco peregrinus anatum</u>)	Endangered
Colorado Squawfish (<u>Ptychocheilus lucius</u>)	Endangered
Bonytail Chub (<u>Gila elegans</u>)	Endangered
Humpback Chub (<u>Gila cypha</u>)	Endangered
Razorback Sucker (<u>Xyrauchen texancus</u>)	Endangered
Mexican Spotted Owl (<u>Strix occidentalis lucida</u>)	Threatened
Southwestern Willow Flycatcher (<u>Empidonax traillii extimus</u>)	Threatened
Heliotrope Milk-vetch (<u>Astragalus montii</u>)	Threatened

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- * The above species list were derived from a U.S. Fish and Wildlife Service (USFWS) list of threatened, endangered and proposed species that may be present in the general Wasatch Plateau area (List received April 12, 1995)

IV. Species Occurrences and Habitat Needs

Bald Eagles (Haliaeetus leucocephalus)

During the breeding season bald eagles are closely associated with water, along coasts, lakeshores, or river banks. During the winter bald eagles tend to concentrate wherever food is available. This usually means open water where fish and waterfowl can be caught. They also winter on more upland areas feeding on small mammals and deer carrion. At winter areas, bald eagles commonly roost in large groups. These communal roosts are located in forested stands that provide protection from harsh weather(Stalmaster, 1987).

Bald eagles can often be found near lakes and reservoirs as well as upland areas on the Manti Division during the late fall early winter. When lakes and reservoir freeze over most

eagles will leave however those feeding in upland areas may stay late into the winter. A pair of nesting bald eagles has recently been located ten miles east of the Forest boundary near the town of Castle Dale. In 1994, a review of the nesting adults and fledglings indicated their foraging habits were within five mile radius from the nest tree. The eagles were not observed inhabiting the analysis area (Boshen, 1995). No bald eagles are known to nest on the forest.

Peregrine Falcon (Falco peregrinus anatum)

Peregrines occupy a wide range of habitats. They are typically found in open country near rivers, marshes, and coasts. cliffs are preferred nesting sites, although reintroduced birds now regularly nest on man-made structures such as tower and high-rise buildings. Peregrines are known to travel more than 18 miles from the nest site to hunt for food. However, a 10 mile radius around the nest is an average hunting area, with 80 percent of the foraging occurring within a mile of the nest. Peregrines prey on wide variety of birds including shorebirds, waterfowl, grouse, and pigeons (Ratcliffe 1980; and Cade et al. 1988).

Migrating or transient peregrines have been seen on the Wasatch Plateau (including Joes Valley) however, after numerous surveys, conducted over many years, the only peregrines found on the forest nest on the Monticello Ranger District. The San Rafael Resource Area, BLM does have a number of active falcon nests. the closest in approximately 40 miles southeast of the affected area.

Colorado Squawfish (Ptychocheilus lucius)

The Colorado squawfish had a historic range from Green River, Wyoming, to the Gulf of California, but the species is now confined to the upper Colorado River Basin mainstream and larger tributaries (USFWS 1987a). The lower Green River between the Price and San Rafael rivers contains abundant Colorado Squawfish (USFWS 1987b). The species decline can be attributed to direct loss of habitat, changes in water flow and temperature, blockage of migrations, and interactions with introduced fish species (USFWS 1987b). Colorado squawfish adults are thought to prefer deepwater eddies and pools or other areas adjacent to the main water current, whereas the young inhabit shallow, quiet backwaters adjacent to high

flow areas. Colorado squawfish feed on invertebrates while young but gradually became piscivorous after one year (Woodling 1985). No Colorado squawfish have been located on the Forest but they are present in the drainage that receive water originating on the Forest.

Bonytail Chub (Gila elegans)

Historically bonytail chubs existed throughout the Colorado River drainage (Woodling 1985). Recently, isolated captures of bonytail chubs have been made in the Colorado River basin but recruitment to the population is extremely low or nonexistent. The decline of the bonytail chub is attributed to dam constructing and associated water temperature changes. Other factors contributing to the reduced numbers include flow depletion, hybridization, stream alterations associated with dam construction, and the introduction of non-native fish species. The bonytail chub generally inhabits eddies and pools over swift current areas (Woodling 1985). The chub is an omnivore, feeding mostly on terrestrial insects, plant debris and algae and begins to spawn at five to seven years of age (Behnke and Benson 1980). No bonytail chubs have been located on the forest but they are present in drainage that receive water originating on the Forest.

Humpback Chub (Gila cypha)

The humpback chub is believed to have inhabited all of the large rivers of the upper Colorado River basin and canyons of the lower Colorado River basin (Ono, Williams, and Wagner 1983). Presently the humpback chub can be located in and above the Grand Canyon, Arizona, and the major tributaries to the Colorado River (Woodling 1985). The USFWS (1990) states stream alteration, including dewatering, dams and channelization, as factors causing the decline of the species. The humpback chub normally lives adjacent to high velocity flows, where they consume plankton and small invertebrates (USFWS 1990). The humpback chub has not been located on the Forest but they are present in drainage that receive water originating on the Forest.

Razorback Sucker (Xyrauchen texancus)

Historic distribution of the razorback sucker was mainly along the mainstream of the Colorado, Green and San Juan Rivers. They presently only occur in a portion of their former range in these rivers and are normally found in water four to ten feet deep with area of strong currents and backwaters (Woodling 1985). Spawning fish have been located over both sand and gravel/cobble bars (USFWS 1987b). The razor back sucker feeds on small invertebrates, and animals and organic debris on the river bottoms. Behnke and Benson (1980) link the decline of the razorback sucker to the land and water uses, particularly dam construction and the associated change of flow regimes and river channel characteristics.

The razorback sucker has not been located on the Forest but they are present in drainage that receive water originating on the Forest.

Mexican Spotted Owl (Strix occidentalis lucida)

The Mexican Spotted Owl is found in southwestern United States and extends into the extreme south portion of Utah. Distribution is patchy in mountains and canyons containing mixed conifers, pine-oak, and evergreen oak forests. They are found on steep slopes in mature forests with dense, uneven-aged stands and high canopy closure, high basal area, and many snags and downed logs. Nest sites are generally found in mature mixed conifer forests, mainly douglas-fir and to a lesser extent in ponderosa pine, gambel oak, and on cliff ledges. They forage in mature forests of mixed-conifer and gambel oak possibly due to the availability of preferred prey (rats and mice) and avoidance of great horned owls. The Mexican Spotted Owls or southeastern Utah have been found in crevices and small canyons where mature conifer trees are scattered in the canyon bottoms.

Spotted Owls are sensitive to high summer temperature, therefore closed canopy forests or protected canyon sites may be the only suitable habitats available in the arid southwest. They are known to occur at approximately 30 sites on the Colorado Plateau and all of these sites are classified as narrow sandstone canyons. Spotted owls require areas with dense multi-layered mixed conifer stands or steep canyon with caves and crack systems in order to find protected nest/roost sites. It is likely that the spruce and ponderosa pine forest in southern

Utah do not provide the necessary stand configuration Mexican spotted owls require for nesting and roosting. Spotted owls are normally found within four-tenths of a mile of permanent water (Ganey 1988; Johnsgard 1988; Willey et al 1991; and Daw 1991).

Areas of suitable habitat on the Forest have been inventoried during the last three field seasons and the only Mexican spotted owls found have been on the La Sal Division.

Southwestern Willow Flycatcher (Empidonax traillii extimus)

The Southwestern willow flycatcher spends most of its time in the southwestern United States and is extending its range to the lower one-fourth of the state of Utah. These flycatchers are closely associated with riparian habitats such as willow or alder thickets along streams, on the shores of ponds, or bordering marshy areas. They are also found in the brushy margins of fields, along mountain streams, and in shrubby floodplain areas. They prefer areas of high shrub densities interspersed with openings or meadows. The woody component of their habitat is almost exclusively deciduous including willows, alders, cottonwoods, aspens, and shrubs such as chokecherry, hawthorn, sumac and wild rose. As the name implies Southwestern Willow Flycatchers are insectivores eating wasps, bees, beetles, flies, moths and butterflies. (Unitt 1987)

After two years of surveys in areas of suitable habitat, no southwestern willow flycatchers have been located on the Wasatch Plateau.

Heliotrope Milk-vetch (Astragalus montii)

This plant occurs within the Ferron/Price Ranger District, where it is found only at high elevations (10,000 to 11,000 ft.) on Flagstaff limestone outcrops. Associated with low growing subalpine vegetation, populations are located on top of Heliotrope, Ferron and White Mountains. Taken from USDA Forest Service 1991a,b; and Manti-La Sal National Forest Supervisor office files.

V. Determination of Effects

Suitable Habitat -

The area affected by the proposed action does not contain suitable habitat (ie. elevation, vegetation, and/or geology) and known home ranges for many of the species in the above lists. Therefore, it is determined that there will be no effect upon them. These species (as listed below) are therefore eliminated from further analysis.

- Colorado Squawfish (Ptychocheilus lucius) - The area affected by the proposed action does not contain any of the endangered fish and the proposed action would not affect the amount or quality of water draining into the Colorado River Drainage.
- Bonytail Chub (Gila elegans) - The area affected by the proposed action does not contain any of the endangered fish and the proposed action would not affect the amount or quality of water draining into the Colorado River Drainage.
- Humpback Chub (Gila cypha) - The area affected by the proposed action does not contain any of the endangered fish and the proposed action would not affect the amount or quality of water draining into the Colorado River Drainage.
- Razorback Sucker (Xyrauchen texanus) - The area affected by the proposed action does not contain any of the endangered fish and the proposed action would not affect the amount or quality of water draining into the Colorado River Drainage.
- Mexican Spotted Owl (Strix occidentalis lucida) - The area affected by the proposed action is outside the range of these species. Refer to the Draft Recovery Plan for the Mexican owl. March 1995.
- Southwestern Willow Flycatcher (Empidonax traillii extimus) - The proposed action is outside the range of these species. Refer to the excerpts from the proposed rule that appeared in Federal Register, Vol. 58, No. 140, 7/23/93.

- Heliotrope Milk-vetch (Astragalus montii) - The area affected by the proposed action is outside the range of this species. The elevations and geology are not correct for the occurrence of this species.

Accordingly the potential for effects upon the following species will be analyzed further.

Bald Eagle (Haliaeetus leucocephalus)

American peregrine falcon (Falco peregrinus anatum).

Effects of the Project Proposal

Bald Eagles (Haliaeetus leucocephalus)

Bald Eagles can often be found near the lakes and reservoirs on the Manti Division during the late fall and early winter. Joes Valley Reservoir has been known to annually inhabit bald eagles from approximately mid October to early January. When the Reservoir freezes over, the eagles leave. A pair of bald eagles have been known to nest near the town of Castle Dale (Approximately 10 miles east of the Forest boundary near Straight Canyon). Reviews of the nesting eagles near Castle Dale indicate foraging habitat of adults and juveniles are within an approximate five mile radius from the nest site. The nesting eagles's home range was not identified to be within any of the area addressed in the Trail Mountain Mine Plan Amendment. No direct or indirect effects caused by the mine plan are expected. No bald eagles are known to inhabit the area.

Peregrine Falcon (Falco peregrinus anatum)

Peregrines prefer cliffs as nest sites. Existing cliff faces occur within the effected area. The Manti Division underwent intense aerial surveys for peregrine falcons. The survey were conducted by the U.S. Fish and Wildlife Service, Utah Division of Wildlife Resources, and local coal companies beginning approximately nine years ago. Additional follow-up surveys have been conducted every two or three years. Results included no sighting or identification of peregrine inhabiting the area. A falcon scrape has been identified south of the area impacted by this action. This scrape was identified as to the species using it, and

has not be determined to be active for the past several years. No direct or indirect effects are expected to impact the peregrine falcon or its habitat.

VI. Listed Species Biological Assessment Summary of Conclusions of Effects

Project Name: BA for TRAIL MOUNTAIN MINE PLAN AMENDMENT

Alternative: Alternative II

Species	No Effect	May Effect - Not Likely to Adversely Affect	Likely To Adversely Affect	Beneficial Effect
Bald Eagle	X			
Peregrine Falcon	X			

Bald Eagles (Haliaeetus leucocephalus)

The proposed action will not contribute to loss of viability of the Bald Eagle for the following reasons:

- 1) Bald Eagles are known not to nest or reproduce within any of the proposed action areas.
- 2) No bald eagles are known to utilize any of the proposed project area.
- 3) Reviews of the nesting bald eagles near Castle Dale indicate foraging habits of adults and juveniles are not within the proposed action areas.

Peregrine Falcons (Falco peregrinus anatum)

The proposed action will not contribute to loss of viability of the peregrine falcon for the following reasons:

- 1) Past surveys conducted by the U.S. Fish and Wildlife Service, Utah Division of Wildlife Resources, and Energy West Coal Company indicated no sighting of peregrine falcons within the proposed project area.
- 2) The known falcon eyries in the San Rafael Swell are too far away to affect their foraging habitat.

VII. DOCUMENTATION

References used to determine the presence (or absence) of Threatened, Endangered, Proposed, and Sensitive Species as well as species characteristics and habitat information include:

Baxter, G.T. and J.R. Simon. 1970. Wyoming fishes. Wyoming Game and Fish Dept. bull. No. 4. Cheyenne. 168 pp.

Behnke, R.J. and D.E. Benson. 1980. Endangered and threatened fishes of the upper Colorado River Basin Coop. Ext. Serv., Colorado State Univ. , Fort Collins, Bull. 503A. 34 pp.

Boschen, Nelson. 1995. Bald Eagles in Southeastern Utah: 1994 Nesting Season.

Cade, T.J., J.H. Enderson, C.G. Thelander, and C.M. White. 1988. Peregrine falcon populations: their management and recovery. the Peregrine Fund, Inc., Boise. 949 pp.

Daw, S.K. 1991. Preliminary Mexican Spotted Owl Survey in Glen Canyon National Recreation Area. Unpublished Technical Report.

Caney, J.L. 1988. Distribution and habitat ecology of Mexican spotted owls in Arizona. M.S. Thesis. Northern Arizona Univ., Flagstaff. 229 pp.

Johnsgard, P.A. 1988. North American owls, biology and natural history. Smith. Instit. Press, Washington and London. 295 pp.

Ratcliffe, D.A. 1980. The peregrine falcon. Buteo Books, Vermillion, SD. 416 pp.

Sigler, W.F. and R.R. Miller. 1963. Fishes of Utah. Utah State Dept. of Fish and Game, Salt Lake City. 203 pp.

Stalmaster, M.V. 1987. The bald eagle, Universe Books, New York. 227 pp.

Unitt, P. 1987. Empidonax traillii extimus: an endangered subspecies. Western Birds 18:137-162

Welsh, Stanley L., ND. Atwood, S. Goodrich, and L.C. Higgins. 1987. A Utah Flora. Great Basin Naturalist Memoirs Number 9. 894 pp.

Willey, D., J. Willey, and D. Chapman. 1991. Final Report - Mexican Spotted Owl Surveys in Forested Highlands and Adjacent Canyonlands in Southern Utah. Forest Service Contract Nos: 53-8462-0-07007, and 53-8462-0-07008. 57 pp.

A. Forest Service References

District wildlife observation records. USDA Forest Service, Price Ranger District, Price, Utah.

Personal communications with Forest Service personnel.

USDA Forest Service. 1991a. Threatened, Endangered, and Sensitive Species of the Intermountain Region. USDA Forest Service, Intermountain Region. Ogden, UT.

USDA Forest Service. 1991. Utah Endangered, Threatened, and Sensitive Plant Field Guide. USDA Forest Service, Intermountain Region, Ogden, Utah.

B. State Wildlife Agency References

Personal communications with Bill Bates, Southeastern Regional Nongame Manager, Utah Division of Wildlife Resources, Price, UT.

Shirley D. Nongame Biologist Utah Division of Wildlife Resources. Personnel Communication with Rod Player, March 1991.

Utah Division of Wildlife Resources. 1980. Bats of Utah. UDWR Publication No.80-15.

Utah Division of Wildlife Resources. 1990. Fauna of Southeastern Utah and Life Requisites Regarding their Ecosystems. Publication No. 90-11.

C. U.S. Fish and Wildlife Service References

A phone call was made to the U.S. Fish and Wildlife Service (Susan Lanier) on April 10, 1995 relative to nesting Bald eagles near the town of Castle Dale.

A phone call was made to the U.S. Fish and Wildlife Service on April 3, 1992, to confirm the list of Threatened, Endangered, and Proposed Species that was already on hand.

U.S. Fish and Wildlife Service. 1995. Mexican Spotted Owl (Strix occidentalis lucida) recovery plan. U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

U.S. Fish and Wildlife Service. 1995. Neliotrope milkvetch (Astragalus montii) recovery plan. U.S. Fish and Wildlife Service, Denver, Colorado. 11pp.

Federal Register Vol. 58 No. 140, 7/23/93.

BIOLOGICAL EVALUATION

INTRODUCTION

The biological evaluation is an analysis of which sensitive species may occur in the project area and whether any impacts on those species are anticipated. Although not required under the Endangered Species Act, it is Forest Service policy to analyze potential impacts to sensitive species as well [Forest Service Manual (FSM) 2670.31-32]. Sensitive species are those identified by the Forest Service Regional Forester as "those...for which population viability is a concern, as evidenced by ...significant current or predicted downward trends in population numbers or density... "or" significant current or predicted downward trends in habitat capability that would reduce a species' existing distribution." (FSM 2670.5).

SPECIES KNOWN OR POTENTIALLY IN THE AREA

Known or Suspected Sensitive Species on the Ferron/Price Ranger District

SPECIES*

Spotted bat	<u>Euderma maculatum</u>
Townsend's big-eared bat	<u>Corynorhilus townsendii</u>
Boreal owl	<u>Aegolius funereus</u>
Flammulated owl	<u>Otus flammeolus</u>
Northern Goshawk	<u>Accipiter gentilis</u>
Three-toed woodpecker	<u>Picoides tridactylus</u>
Spotted Frog	<u>Rana pretiosa</u>
Canyon Sweetvetch	<u>Hedysarum occidentale</u> var. <u>canone</u>

* The above species list were derived from the Forest Service (FS) Sensitive Species list for the Intermountain Region.

AFFECTED ENVIRONMENT

Spotted Bat (Euderma maculatum)

Spotted bats occur in scattered areas throughout Utah. They have been found in a variety of habitat types including open ponderosa pine, desert scrub, pinyon-juniper, and open pasture and hay fields. They roost alone in rock crevices high up on steep cliff faces. Cracks and crevices ranging in width from 0.8-2.2 inches in limestone or sandstone cliffs are critical roosting sites. There is some evidence that individuals show fidelity to roost sites. They are territorial and avoid each other while foraging. They are thought to migrate south for winter hibernation.

Spotted bats are rare and may be limited by suitable roosting sites. they are found in relatively remote, undisturbed areas, suggesting that they may be sensitive to human disturbance.

Little is known of the spotted bats food habits. They are thought to feed mainly on moths. Their echolocation call is very effective for fast flight feeding on moths. They forage alone,

after dark, and avoid each other by listening to the echolocation calls of others.(Leonard and Fenton 1983; Woodsworth et al 1981; and Watkins 1977)

To date the only known sightings of spotted bats on the forest have been on the Monticello, Moab, and Ferron/Price Ranger Districts. On the Ferron/Price Ranger District they have been located at Joe's Valley Reservoir and at Emerald Lake. Cottonwood and Straight Canyons were surveyed in 1992 by Robin A. Toone. The survey did not find any bats close to the project area. It did locate some echolocation bat calls similar to the spotted bat close to the Joe's Valley. The discovery was unconfirmed because of disturbance and was approximately 5 miles from the project area.

TOWNSEND'S BIG-EARED BAT (WESTERN BIG-EARED BAT) (Corynorhilus townsendii)

Townsend's or Western Big-eared bat uses a variety of scrub and forested habitats, throughout western North America. These bats use juniper/pine forests, shrub/steppe grasslands, deciduous forests and mixed coniferous forests from sea level to 10,000 foot elevation. They utilize colonial nurseries. Cool places such as caves, rock fissures, mines, and buildings are used for roosting and hibernation. Foraging of primarily moths. Is often done in open woodlands, along forest edges, and over water.

The Townsend's Big-eared bat occurs throughout western North America including Utah. During the winter they roost singly or in small clusters. They remain at these sites from October to February. Migration for these bats usually means a change in location in the same cave or to another nearby cave.

The Townsend's Big-eared Bat is very sensitive to human disturbance. It will readily abandon roosts when disturbed. Activities that will or may disturb caves or mines should be evaluated to determine potential impacts to this species. [Kunz and Martin 1982; and Utah Division of Wildlife Resources 1980]

Townsend's Big-eared Bats have been documented using inactive coal mines as hibernacula on the Ferron Ranger District during 1992. They have also been found roosting in buildings of the Ferron/Price Ranger District in the town of Ferron during late summer of 1992.

BOREAL OWL (Aegolius funereus)

The range of the boreal owl extends down into the extreme northern most counties of Utah. It is known to occur throughout the high elevation mountainous areas of Colorado. Boreal owls are closely associated with high elevation spruce-fir forests due to their dependence on this forest type for foraging year round. Nesting habitat structure consists of forests with a relatively high density of large trees, open understory, and multi-layered canopy. Owls nest in cavities excavated by large woodpeckers in mixed coniferous, aspen, Douglas-fir, and spruce-fir habitat types. In summer, owls roost in cool spruce-fir stands. Boreal owls prey primarily on small mammals such as voles, pocket gophers, and shrews. They are however, opportunistic and also eat insects, and birds. They avoid open areas, such as clearcuts and open meadows, except for occasional use of the edges for foraging. [Johnsgard 1988; Hayward 1989]

To date no boreal owls have been located on the Forest. If they do occur on the Forest it would most likely be on the Moab Ranger District, because of the proximity of boreal owls in Colorado.

FLAMMULATED OWL (Otus flammeolus)

Flammulated owls are found throughout the western United States including Utah. They can be found in the mixed pine forests, from pine mixed with oak and pinyon at lower elevations to pine mixed with spruce and fir at higher elevations. They have also been found in aspen and second growth ponderosa pine. However, they prefer mature Ponderosa Pine-Douglas fir forests with open canopies. Large diameter dead trees with cavities are important nest site characteristics. They avoid foraging in young dense stands where hunting is difficult. Flammulated owls are dependant upon mature conifer stands for nesting. They are also known to avoid cut-over areas. Flammulated owls are almost exclusively insectivorous, preying on small to medium sized moths, beetles, caterpillars, and crickets. [Reynolds and Linkhart 1987; Johnsgard 1988; and Bull et al 1990].

Many flammulated owls have been located on the Monticello and Moab Ranger Districts as part of Mexican Spotted Owl Inventories. They have also been found in the Quitchupah drainage and the head of the Muddy on the Ferron/Price Ranger District. All but one of these locations have been associated with ponderosa pine.

NORTHERN GOSHAWK (Accipiter gentilis)

In nesting or foraging, the goshawk is a raptor of the dense forest. Goshawks have been found in a variety of forest ecosystems including lodgepole pine, ponderosa pine, Douglas fir, mixed forests throughout much of the Northern hemisphere. They prey upon small mammals and birds (rabbits, squirrels, chipmunks, grouse, woodpeckers, jays, robins, grosbeaks, and etc.). Goshawk nest sites are usually located in mature forests, near water, and on benches of relatively little slope. Nests are often used year after year. Goshawks are very protective of their young in the nest and loudly defend them to intruders. They are very sensitive to human disturbance and have abandoned nests and young due to human activities that take place too close to their nest [Kennedy and Stahlecker 1989; and Hennessey 1978]

Goshawks have been found nesting on all Ranger Districts. These nests are associated with aspen, mixed conifer, and ponderosa pine.

THREE-TOED WOODPECKER (Picoides tridactylus)

Three-toed woodpeckers range across North America. They are found in northern coniferous and mixed forest types up to 9000 feet elevation. Forests containing spruce, grand fir, ponderosa pine, tamarack, and lodgepole pine are used. Nests may be found in spruce, tamarack, pine, cedar, and aspen trees. Three-toed woodpeckers forage mainly in dead trees, although they will feed in live trees. About 75% of their diet is woodboring insect larvae, mostly beetles, but they also eat moth larvae. They are major predators of the spruce bark beetle, especially during epidemics. They forage on a wide variety of tree species depending on location. In Colorado, they prefer to forage on old-growth and mature trees.

Fire or insect killed trees are major food sources. Forest fires and areas of insect outbreaks may lead to local increases in woodpecker numbers after 3-5 years. [Bull et al 1986; and Scott et al 1980]

Surveys for three toed woodpecker took place in suitable habitat on the Ferron/Price, Sanpete, and Moab/Monticello Ranger Districts in June and July of 1992. Further surveys during the 1993 and 1994 field seasons on the Ferron/Price District resulted in additional three-toed woodpecker findings. The species was found on all districts surveyed.

SPOTTED FROG (Rana pretiosa)

The Spotted frog ranges from Alaska south to scattered patches in northern Utah. These frogs are highly aquatic most likely found near permanent water such as marshy edges of ponds or lakes, in algae-grown overflow pools of streams, or near springs with emergent vegetation during the breeding period. They do not seem to occur in warm stagnant ponds overgrown with cattails. They may move considerable distances from water after breeding, often frequenting mixed conifer and subalpine forests, grasslands, and brushlands of sage and rabbitbrush. Spotted frogs feed on a wide variety of insects, and a few kinds of mollusks, crustaceans, and arachnids. Spotted frogs are thought to hibernate in holes near springs or other areas where water is unfrozen and constantly renewed. [Shirley 1991; Stebbins 1985; and Turner 1958]

Spotted frogs have been located west of the Manti Division near Fairview. However, no spotted frogs have been located on the Forest and they are only expected to occur on the west side on the Manti Division.

CANYON SWEETVETCH (Hedysarum occidentale var. canone)

Scattered populations of this plant occur in lower Huntington Canyon, Price District, in Straight Canyon, and near Joe's Valley, Ferron District. Plants are usually found on sites with a high water table, near springs or along stream beds, or riparian area in Pinyon-Juniper types. River birch and squawbush are plants most commonly associated with this species. The plant is usually found at elevations between 5500 and 7000 ft.

ALTERNATIVES

Eight sensitive species have been evaluated for potential impacts. The species are listed below with the impact potential.

SPOTTED BAT (Euderma maculatum)

There is a potential of an impact to the bat. The bats roosting habitat is located on mountain side slopes in cracks and crevices in rock outcrops and escarpments. The area has the potential of an escarpment failure that would remove some roosting habitat, and potentially result in the loss of a few bats. Past inventory of Cottonwood Canyon and Straight Canyon did not find any bats within five miles of the area impacted by this action.

TOWNSEND'S BIG-EARED BAT (Corynorhilus townsendii)

There is a potential of an impact to the bat. The bats roosting habitat is located on mountain side slopes in cracks and crevices in rock outcrops and escarpments. The bats roosting habitat is located on mountain side slopes in cracks and crevices in rock outcrops and escarpments. The area has the potential of an escarpment failure that would remove some roosting habitat, and potentially result in the loss of a few bats. Past inventory of Cottonwood Canyon and Straight Canyon did not find any bats within five miles of the area impacted by this action.

BOREAL OWL (Aegolius funereus)

Although no boreal owl surveys have been completed it is doubtful that any owls are in the affected area. The owl utilizes higher elevations with spruce fir forests. The affected areas is too low and does not have the preferred habitat for the owls. There would be no impact to the owl.

FLAMMULATED OWL (Otus flammeolus)

Although no flammulated owl surveys have been conducted within the project area it is possible that flammulated owls may exist here. The project area may provide some marginally suitable habitat, and if flammulated owls exists here they are most likely at very low population levels. No direct or indirect effects are anticipated.

NORTHERN GOSHAWK (Accipiter gentilis)

Wildlife surveys have located active goshawk nests on the Ferron/Price District, however none were found in the project area. The project area contains primarily pinyon-juniper and does not provide the habitat preferred by the goshawk. No direct or indirect effects are anticipated.

THREE-TOED WOODPECKER (Picoides tridactylus)

There would be no direct or indirect effects caused by the alternatives. Three-toed woodpeckers exist here in low levels and large amounts of suitable habitat exist in surrounding areas.

SPOTTED FROG (Rana pretiosa)

There would be no direct or indirect effects caused by the alternatives. The area does not contain any perennial water sources that could support the frog.

CANYON SWEETVETCH (Hedysarum occidentale var. canone)

The canyon sweetvetch is present on a small ridge below and to one side of the projected rock slide route if the escarpment should fail. The plant will not be affected by this action.

CUMULATIVE EFFECTS

The failure of the escarpment would remove some cliff face and pinyon-juniper habitat. This would be a small loss to the bats as there is a large amount of this habitat available to them, and because they were not identified as using the area. There would be no cumulative effects to any of the other sensitive species.

**SENSITIVE SPECIES BIOLOGICAL EVALUATION
SUMMARY OF CONCLUSION OF EFFECTS****

TRAIL MOUNTAIN MINE PLAN AMENDMENT

SPECIES	ALT 1	ALT 2	ALT 3
Spotted bat	NI	MIIH	NI
Townsend's big-eared bat	NI	MIIH	NI
Boreal owl	NI	NI	NI
Flammulated owl	NI	NI	NI
Northern Goshawk	NI	NI	NI
Three-toed woodpecker	NI	NI	NI
Spotted Frog	NI	NI	NI
Canyon Sweetvetch	NI	MIIH	NI

Prepared by 1st Wayne Ludwig 1st Date: 3/15/96

Approved by 1st Rod Pyle 3/18/96 1st Wildlife Biologist Fisheries Biologist 1st Robert W. Johnson Botanist 3/15/96

- NI - No Impact
- MIIH - May Impact Individuals Or Habitat, But Will Not Likely Contribute To A Trend Towards Federal Listing Or Loss Of Viability To The Population Or Species
- WIFV* - Will Impact Individuals Or Habitat With A Consequence That The Action May Contribute To A Trend Towards Federal Listing Or Cause A Loss Of Viability To The Population Or Species.
- BI - Beneficial Impact

* Trigger for a Significant Action As Defined In NEPA

DOCUMENTATION

References used to determine the presence (or absence) of Sensitive Species as well as species characteristics and habitat information include:

- Bull, E.L., A.L. Wright, and M.G. Henjum. 1990. Nesting habitat of flammulated Owls in Oregon. *J.Raptor Res.* 24(3):52-55.
- Bull, E.L., S.R. Peterson, and J.W. Thomas. 1986. Resource partitioning among woodpeckers in north-eastern Oregon. Res. Note PNW-444. LeGrande, OR: U.S. Dept. of Agricul., For. Serv., Pacific Northwest Res. Sta. 19 pp.
- Hayward, G.D. 1989. Habitat use and population biology of boreal owls in the northern Rocky Mountains, U.S.A. Ph.D dissertation. Univ. of Idaho, Moscow. 113 pp.
- Hennessey, S.P. 1978. Ecological relationships of accipiters in northern Utah with special emphasis on effects of human disturbance. M.S. Thesis, Utah State University, Logan, Utah. 65 pp.
- Johnsgard, P.A. 1988. North American owls, biology and natural history. Smith. Instit. Press, Washington and London. 295 pp.
- Kennedy, P.L., and D.W. Stahlecker. 1989. Preliminary Northern Goshawk Inventory. Unpublished Protocol.
- Kunz, T.H. and R.A. Martin. 1982. *Plecotus townsendii*. Mammalian Species No. 175. 6 pp.
- Leonard, M.L. and M.B. Fenton. 1983. Habitat use by spotted bats (*Euderma maculatum*), Chiroptera: Vespertilionidae: roosting and foraging behavior. *Can. J. Zool.* 61:1487-1491.
- Reynolds, R.T. and B.D. Linkhart. 1987. The nesting biology of flammulated Owls in Colorado. Pages 239-248 in A.W. Nero, R.J. Clark, R.J. Knapton.
- Scott, V.E., J.E. Whelan, and P.L. Svoboda. 1980. Cavity nesting birds and forest management. Pages 311-324 in R.M. DeGraaf, tech. coord. Proc. of workshop on management of western forests and grasslands for nongame birds. U.S. For. Serv. Gen. Tech. Rep. INT-86. Intermountain For. and Range Exp. Sta., Ogden, UT,
- Stebbins, R.C. 1985. *A field guide to western reptiles and amphibians*. Houghton Mifflin Company, Boston. 336 pp.
- Turner, F.B. 1958. Life history of the western Spotted frog in Yellowstone National Park. *Herpetological* 14:96-100.
- Watkins, L.C. 1977. *Euderma maculatum*. Mammalian Series No. 77. 4 pp.
- Woodsworth, G.C., G.P. Bell, and M.B. Fenton. 1981. Observations of the echolocation, feeding behavior, and habitat use of *Euderma maculatum* (Chiroptera: Vespertilionidae) in south central British Columbia. *Can. J. Zool.* 59:1099-1102.

ATTACHMENT 4

**Trail Mountain R2P2 Minor Modification Request
Settlement Agreement Dated 3/4/96**



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Moab District
Price River/San Rafael Resource Areas
125 South 600 West
P. O. Box 7004
Price, Utah 84501

3482
U-64375
U-49332
U-082996
(UT-066)

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Certified No. Z 382 123 785

MAR 15 1996

J. Brett Harvey, President
Interwest Mining Company
201 South Main, Suite 2300
Salt Lake City, Utah 84140

Re: Trail Mountain Mine Resource Recovery and Protection Plan (R2P2), Minor Modification Request:
Response to PacifiCorp's Alternative Mine Plan for Trail Mountain Mine

Dear Mr. Harvey:

On January 9, 1996, the Bureau of Land Management (BLM) received PacifiCorp's "Alternative Mine Plan for the Trail Mountain Mine"/Trail Mountain R2P2, dated December 22, 1995. The Alternative Mine Plan was supplemented by an addendum which was originally dated and submitted to the BLM February 1, 1996, and was resubmitted with certain corrections on February 5, 1996. On March 4, 1996, a Settlement Agreement regarding the Trail Mountain R2P2 was achieved. Therefore, in accordance with the March 4 Settlement Agreement, the BLM has determined the proposed resource recovery and protection plan for the Trail Mountain Mine does comply with the Mineral Leasing Act of 1920, as amended, the regulations at 43 CFR 3480, the lease terms and conditions, and the stipulations, and will achieve maximum economic recovery of the Federal coal. Hence, approval of the Trail Mountain Resource Recovery and Protection Plan is granted.

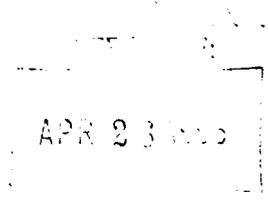
The BLM extends a sincere thanks and appreciation to PacifiCorp for their efforts and professional cooperation in resolving this matter. If you have any questions, please contact Barry Grosely in the Price River Resource Area at (801) 636-3606.

Sincerely,

MARR E. BALLEW

Area Manager

- cc: UT-921, SD, Utah
- UT-065, DM, Moab
- J.R. Key
Director, Technical Services
Interwest Mining Company
201 South Main, Suite 2000
Salt Lake City, Utah 84140-0020
- Carl Pollastro
Manager, Technical Services
Energy West Mining Company
15 North Main
Huntington, Utah 84528



Utah Division Oil, Gas and...

SETTLEMENT AGREEMENT

PacifiCorp, by an officer of its authorized agent, Energy West Mining Company, together with its counsel of record, Stoel Rives LLP; and the Bureau of Land Management, acting through its counsel of record, Stoel Rives LLP; and the Bureau of Land Management, acting through its authorized officer, together with Bruce Babbitt, Secretary of the United States Department of the Interior, and all other defendants, acting by and through their counsel of record, the United States Attorney, hereby stipulate to settlement of all issues in the matter now pending in United States District Court for the District of Utah captioned PacifiCorp v. Bruce Babbitt, Secretary of the United States Department of the Interior, et al., Civil No. 2:95CV 0923G, on the following terms:

1. The Bureau of Land Management ("BLM"), acting through its Authorized Officer, will, by written decision, approve, the "Alternative Mine Plan for the Trail Mountain Mine" as submitted by Interwest Mining Company, a subsidiary of PacifiCorp, dated December 22, 1995, as supplemented by an addendum which was originally dated and submitted to the BLM February 1, 1996 and was resubmitted with certain corrections on February 5, 1996. These documents collectively are hereinafter referred to as the "Trail Mountain R2P2." Because the Trail Mountain R2P2 is confidential, it is not attached hereto. PacifiCorp and the defendants each represent to the other that they have in their possession a full and complete copy of the Trail Mountain R2P2 referred to in this Settlement Agreement.

2. The conduct of operations pursuant to the Trail Mountain R2P2 will be subject to all lease terms and regulations governing the conduct of mining operations pursuant to an approved R2P2.

3. In order to accomplish the mining as planned in the Trail Mountain R2P2 in the proposed 4th East and 5th East longwall panels, it will be necessary to conduct full extraction mining operations under a portion of the Castlegate escarpment. Authority to conduct such longwall extraction operations under the escarpment is contingent upon approval by governmental agencies other than the BLM. Therefore, PacifiCorp and the BLM agree that they will each make a good faith effort to obtain all approvals necessary to conduct the planned operations following the sequence and timing set forth in the Trail Mountain R2P2. In the event such approvals are not obtained prior to the time scheduled operations would otherwise occur under the Trail Mountain R2P2, then bleeder and set up entries in the 4th East and 5th East longwall panels shall be established by PacifiCorp at the locations shown in the proposed R2P2 that is the subject matter of the above-captioned litigation. In the event such approvals are not obtained in time to conduct the longwall operation, no royalty will be assessed on coal under and east of the escarpment in the remainder of Area I, as designated on Enclosure "1" to the BLM's letter to PacifiCorp dated September 25, 1995. The line of demarcation will be the angle of draw that would preclude potential adverse impacts to the escarpment.

4. In order to accomplish the mining as planned in the Trail Mountain R2P2 in the proposed 6th East longwall panel, it will be necessary for PacifiCorp to obtain from the appropriate governmental agencies a Special Use Permit or other authorization for the development of underground rights-of-way outside the present federal coal lease boundaries. Authority to conduct such operations is contingent upon compliance with environmental laws and may also require the approval of governmental agencies other than the BLM. Therefore, PacifiCorp and the BLM stipulate that they will each make a good faith effort to obtain all approvals necessary to conduct the planned operations in the development and extraction of the 6th East longwall panel as set forth in the Trail Mountain R2P2. In the event compliance with the environmental laws and the obtaining of the necessary approvals does not occur prior to the time scheduled operations would otherwise occur under the Trail Mountain R2P2 in the 6th East longwall panel, PacifiCorp shall not be obligated to conduct the development and extraction operations shown in the Trail Mountain R2P2 with respect to the 6th East longwall panel. In the event such approvals are not obtained in time to conduct the planned operations, no royalty will be assessed upon reserves remaining unmined in the 6th East longwall panel or in the remainder of Area II, as designated on Enclosure "1" to the BLM's letter to PacifiCorp dated September 25, 1995.

5. In order to accomplish the mining as planned and in the sequence approved in the Trail Mountain R2P2 in the proposed 12th Right, 11th Right, 10th Right, 9th Right and 8th Right longwall panels, it will be necessary for PacifiCorp to obtain from the appropriate governmental agencies a Special Use Permit or other authorization for the development of underground rights-of-way outside the present federal coal lease boundaries. Authority to conduct such operations is contingent upon compliance with environmental laws as well as the approval by governmental agencies other than the BLM. Therefore, PacifiCorp and the BLM stipulate that they will each make a good faith effort to obtain all approvals necessary to conduct the planned operations in the development and extraction of the 12th Right, 11th Right, 10th Right, 9th Right and 8th Right longwall panels as set forth in the Trail Mountain R2P2. In the event compliance with the environmental laws and the obtaining of the necessary approvals does not occur prior to the time scheduled operations would otherwise occur under the Trail Mountain R2P2 in the 12th Right, 11th Right, 10th Right, 9th Right and 8th Right longwall panels, then the bleeder entries will be established within the boundary of Federal Lease U-64375, ~~maintaining a 50 ft. (minimum) solid coal external property boundary barrier,~~ approximately at the locations shown for the set up entries in the Trail Mountain R2P2. New set up entries for the referenced longwall panels shall be established by PacifiCorp with a barrier pillar design as referred to in the February 5, 1996 addendum. This action and subsequent layout would result in the establishment of a "step" bleeder system along the west end of the longwall panels in this area. The parties acknowledge that this design of a "step" bleeder system could result in the possible loss of some reserves. The parties are willing to share the risk of such a reserve loss to achieve maximum economic

DB
SMK

APR 26 1996

recovery. In the event such approvals are not obtained in time to conduct the planned operations, no royalty will be assessed upon reserves remaining unmined in the area of the 12th Right, 11th Right, 10th Right, 9th Right and 8th Right longwall panels.

6. Upon execution of this Settlement Agreement, counsel for PacifiCorp and defendants will promptly execute a Stipulation of Dismissal Without Prejudice substantially in the form attached hereto as Exhibit "A." Following issuance of the Order of Dismissal, counsel for PacifiCorp will withdraw its appeal of this matter now pending before the Interior Board of Land Appeals and all issues with respect to the subject matter of this litigation shall be deemed resolved between the parties.

7. This Agreement is a settlement and compromise of disputed claims and shall have no precedential effect with regard to any of the issues resolved by it.

DATED this 4th day of March, 1996.

PacifiCorp, by Energy West Mining Company, its Managing Agent

Stoel Rives LLP,
counsel for PacifiCorp

By: Don Bob
Its: Vice President

John S. Kirkham
John S. Kirkham

Bureau of Land Management

United States Department of the Interior,
and all other Defendants

By: David M. Koss
Its: Deputy State Director,
Natural Resources

Bruce Hill
Bruce Hill, Special Assistant
U.S. Attorney

APR 23 1996

ATTACHMENT 5

**DOG M Mine Permit Approval Trail Mountain Mine R2P2
3rd, 4th, and 5th East Development and 4th and 5th East Longwall Panels
Dated 4/29/96**



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

5

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

April 29, 1996

Val Payne, Sr. Environmental Engineer
PacifiCorp
Energy West
P.O. Box 310
Huntington Utah 84528

Re: Facilitate Mining with Approved Resource Recovery and Protection Plan (R2, P 2):
3rd, 4th, 5th East Development, 4th and 5th East Longwall Panels, PacifiCorp, Trail
Mountain Mine, ACT/015/009-96A, Folder #2, Emery County, Utah

Dear Mr. Payne,

As of the writing of this letter I am in receipt of comments from the U.S. Fish and Wildlife Service, U.S. Forest Service, Bureau of Land Management, and Susan White, Jesse Kelley and Bill Malencik of our staff. It is my understanding that Bill Bates, Utah Division of Wildlife Resources, Biologist from the Price Resource area has verbally concurred with the State and Federal Entities in attendance at the meeting held in Salt Lake on April 25th, 1996 that first mining for the development of longwall panels in the referenced areas will not affect the presence of the Perigrine Falcon. With that in mind our agency is approving the referenced amendment as follows:

- The approval of amendment 96A is valid for first mining only as described in the Bureau of Land Managements approved R2 P2 and must not be considered, implied, or construed that follow-up longwall mining beneath the escarpment will be approved on 4th and 5th longwall panels as a result of the approval of first mining, until such time as a subsequent amendment is submitted and cleared through other responsible coordinating agencies.
- Mining of the bleeder and setup entries associated with the 4th East Longwall panel will not proceed beyond the Castle Gate escarpment.
- The permittee must resubmit maps delineating this change.

Page 2
ACT/015/009-96A
April 29, 1996

Enclosed is a stamped copy for incorporation into your approved Mining and Reclamation Plan. Please send one additional copy for the Divisions files at your earliest convenience.

Sincerely,



Joseph C. Helfrich
Permit Supervisor

enclosure

cc:

M. Page - DWR Price (w/o enclosure)
D. Ariotti - Health Price (w/o enclosure)
B. Bates - Wildlife Price (w/o enclosure)
PFO

H:payne.wpd

ATTACHMENT 6

**BLM Response to Trail Mountain Mine R2P2
Minor Modification Request Longwall Panel Extension Using a
22 Degree Angle of Draw dated 8/23/96**



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Moab District
 Price River/San Rafael Resource Area
 125 South 600 West
 P. O. Box 7004
 Price, Utah 84501

3482
 U-64375
 (UT-066)

AUG 23 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
 Certified No. Z 382 123 798

Mr. J. R. Key
 Director, Technical Services
 PacifiCorp
 One Utah Center
 201 South Main, Suite 2000
 Salt Lake City, Utah 84140-0020

Re: Trail Mountain Mine, Resource Recovery and Protection Plan (R2P2), Minor Modification Request,
 Longwall Panel Extension, Using a 22 Degree Angle of Draw

Dear Mr. Key:

On August 13, 1996, the Bureau of Land Management (BLM) received PacifiCorp's Minor Modification Request soliciting our approval to extend mining (longwall panel development and panel extraction) beyond the present boundary of Federal coal lease U-64375. The reserves affected by the proposed change are located in the Hiawatha Seam, west of the southwest quadrant of Federal coal lease U-64375 (see enclosure). The area in question creates a large buffer zone between the underground mining on lease U-64375 and Straight Canyon. The buffer zone was created to ensure the integrity of the Castlegate escarpment in Straight Canyon; however, the zone's boundaries were established in somewhat of a subjective manner.

PacifiCorp's proposal provides the means to afford limited mining of the area in question by maintaining an adequate escarpment barrier (buffer zone using a 22 degree angle draw) for protection of the Castlegate escarpment. The design parameter, 22 degree angle of draw, was used to delineate portions of the existing lease boundaries where concern for the escarpment existed. Furthermore, PacifiCorp has demonstrated that adequate protection of the escarpment can be achieved using a 15 degree angle of draw parameter. Also, PacifiCorp has shown that an additional 950,000 ton of recoverable coal reserves can be mined which would otherwise be bypassed.

Inasmuch as the Price BLM Field Office is inclined to favor PacifiCorp's request, an application for **Lease Modification**, annexing the area in question to Federal coal lease U-64375, must be filed with and approved by our State Office before approval of your request can be granted. However, at this time, we find that PacifiCorp has submitted sufficient justification to mine the area in question and that the Price Field Office will work closely with the State Office in an effort to expedite this matter.

If you have any questions, please contact Barry Grosely in the Price River Resource Area at (801) 636-3606.

Sincerely,

MARK E. BAILEY

Area Manager

Enclosure

Proposed Longwall Panel Extensions

cc: UT-921, SD, Utah (wo/Enclosures)
UT-065, DM, Moab (wo/Enclosures)
Carl Polastro (w/Enclosures)
Manager, Technical Services
Energy West Mining Company
15 North Main
Huntington, Utah 84528
Steve F. Kochevar, PE (wo/Enclosures)
Mining Planning Administrator
PacifiCorp
One Utah Center
201 South Main, Suite 2000
Salt Lake City, Utah 84140-0020

ATTACHMENT 7

**DOGM Mine Permit Approval
2nd Mining Trail Mountain Mine R2P2
ACT/015/009-96A, Dated 10/17/96**



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

7

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Third Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

October 17, 1996

Val Payne
Sr. Environmental Engineer
PacifiCorp
P.O. Box 310
Huntington, Utah 84528

RE: 2nd Mining/Resource Recovery and Protection Plan Modification, PacifiCorp, Trail Mountain Mine, ACT/015/009-96A, Folder #2, Emery County, Utah

Dear Mr. Payne:

The aforementioned modification is approved effective October 18, 1996. The approval is based on your application and information provided therein, due consideration of conditions/recommendations provided by other agencies, and the findings cited below.

Follow up Action by Permittee

Please submit seven copies of unshaded documents as follows:

-MRP pages 3-19, 3-21, 3-21.1, 3-47, 3-47.1

-MRP Plates 3-2, 3-3

The submission date of the aforementioned documents is directly related to the pending modeling proposal as described herein. The key question yet to be determined as related to rock spalling and escarpment failure, is the forth and fifth east panels typical or atypical of long wall mining? This matter is discussed further in the findings cited below.

The monitoring associated with potential escarpment failure/rock spalling and allied matters will go to 1999 or 2 years after coal extraction mining is completed on the fourth and fifth east panel.

Project Description

This project involves 2nd mining. It is processed as a modification of a prior amendment ACT/015/009-96A which re-approved 1st Mining. The re-approval, dated April 29, 1996, concerned PacifiCorp report of active peregrine falcon in the proposed mining area. The re-approval decision had interagency inputs and recommendations resulting from the interagency meeting held April 25, 1996.

Analysis

This modification has under gone close coordination with multi-agencies including public notice on the USFS/BLM environmental analysis. The mining area and long wall method of mining is currently approved in the general mining permit. It requires additional consideration because of peregrine falcon sightings in this general mining area this past spring. The modification meets the requirements of surface management agency (USFS), mineral estate management agency (BLM), the USFWS as related to certain endangered species noted herein, other concerned agencies, and the Utah Coal Rules.

Findings

- (1) **MODIFICATION APPLICATION.** The applicant submitted a complete and accurate modification application.
- (2) **DOGM PERMIT STATUS.** The addition lies within the current permit.
- (3) **ACTIVE MINE.** The area is included in an active approved coal mining and reclamation operation.
- (4) **LAND STATUS.** The surface and mineral estate are controlled by the U.S. Government.
- (5) **RECOMMENDATIONS/APPROVALS.** The interagency meeting held April 25, 1996 paved the way for 2nd mining approval with identified subsequent actions.

USFS Actions/Recommendations...

-Team leader on an environmental analysis approved on July 30, 1996.

-As a result of the environmental and other information, eight recommendations/conditions were included which have been incorporated into the modification application by PacifiCorp.

-It should be noted that the eighth recommendation relative to predicative modeling involving rock spalling and escarpment failure is subject to further refinement and consideration by stakeholders. This will be based on further technical consideration to be delineated by Dr. W.G. Pareseau and data to be gathered by the permittee. Will the 2nd mining (long wall) as related to this proposed mining area have application to other long wall mining?

-The key question, 2nd mining as approved, is it typical or atypical? If atypical, how useful is it as a modeling technique? Therefore, as mentioned, this item is included as a condition, but requires further interagency consideration.

-Recommended approval subject to eight conditions attached hereto as exhibit I.

BLM...

-Recommended the modification be approved.

-Was a participant in environmental analysis.

-The R2P2 was modified, updated, and approved.

USFWS...

-Issued a take permit, PRT-820305 on an abandoned eagle nest.

DWR...

-The Division of Wildlife Resources concurred with the modification.

PERMITTEE/PacifiCorp...

-The permittee has committed and is currently gathering field information to facilitate the future interagency consideration on the modeling proposal. Further, they have worked in advance with concerned agencies. The modification reflects this high degree of coordination.

- (6) **IMPACTS.** The project does not have any material adverse impacts to hydrologic balance.

As related to environmental safeguards, the approved modification conditions have been included in the MRP to mitigate potential impacts. The headwork for this leaned heavily on the USFS/BLM/EA that went through the public notice process.

- (7) **RECLAMATION AND BONDING.** The reclamation plan and bonding is on record and determined to be adequate. Therefore, no increase in bonding is necessary.

Page 4
V. Payne/Trail Mountain
2nd Mining-96A
October 17, 1996

- (8) **RECORD UPDATE.** The Technical Analysis does not need to be updated in light of action taken on the 1st Mining re-approval.

Sincerely,



Wm. J. Malencik
Reclamation Specialist

sd
Enclosure
cc:

Ranvir Singh, OSM, Denver
Mark Bailey, BLM, Price
Janette Kaiser, USFS, Manti-LaSal
Mark Page, DWR, Price, w/o enc
Dave Ariotti, DEQ, Price, w/o enc
Bill Bates, DWR, Price, w/o enc
David Terry, Trust Lands, SLC, w/o enc
Pam Grubaugh-Littig, DOGM, SLC, w/o enc
Joe Helfrich, DOGM, SLC, w/o enc

Conditions of Approval

Excerpted from the Environmental Assessment for the Underground Accessway and Undermining of Escarpment, Trail Mountain Mine, Emery County, Utah (March 1996)

The following stipulations are required of PacifiCorp relative to the implementation of the above referenced project and the preferred alternative (Alternative 2) described in the Environmental Assessment and the Decision Notice/Finding of No Significant Impact.

1. PacifiCorp will be required to post signs approved by the Utah Dept. of Transportation and the Forest Service warning of rockfall hazard and that stopping or parking in the identified portion of Highway 29 is prohibited.
2. PacifiCorp will be required to install prisms to establish survey points on the escarpment above Highway 29 to be monitored for possible rotation or movement as mining occurs in the 5th east panel. The intent is to establish if any movement is occurring, and whether a hazard actually exists.
3. PacifiCorp will be responsible to perform oblique photo monitoring before, during and after mining activities.
4. Known populations of *Hedysarum occidentale var. canone* are to be monitored as mining occurs. If they are being effected the authorized officer(s) are to be notified.
5. The area beneath the escarpment in Cottonwood Canyon is to be signed, alerting recreationalists of the rockfall hazard. Design of the sign will be presented to the Forest Service for approval before being deployed. Sign density will be determined by the authorized officer(s).
6. Any large rocks that may roll into Cottonwood Creek will be reported to the Forest Service and BLM hydrologists. If channel morphology is being threatened, PacifiCorp will be responsible to remove the rock(s) and reestablish the original morphology.
7. The area is to be surveyed for raptor nests prior to mining commencing under the escarpment. If nests are encountered, work that could cause further subsidence, leading to escarpment failure, is to be halted until mitigation measures can be accomplished as determined by the Utah DWR and the USFWS.
8. PacifiCorp must conduct modelling (3-dimensional finite element or equivalent) as recommended by PacifiCorp and Dr. W.G. Pariseau (Letter to Forest Service from PacifiCorp, dated February 6, 1991; Re: South Lease Escarpment Study Geotechnical Update) to develop a workable predictive model of the potential for mining induced subsidence to cause escarpment failures. The model for the specific area of proposed subsidence must be run with sufficient detail to project a potential level of escarpment failure and must be adjusted following actual mining to best emulate the actual level of escarpment failure that occurred. A final report must then be submitted to BLM and the Forest Service that describes the prediction made, failure observed, how well the prediction conformed to actual failures, and how the model was adjusted to best conform to actual conditions on the ground and the level of failure observed. An independent/qualified scientist acceptable to the BLM and Forest Service must oversee model development.