



State of Utah

Department of Natural Resources

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Division of Oil, Gas & Mining

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Lieutenant Governor

June 1, 2005

Henry Maddux, Assistant Field Supervisor
U. S. Fish and Wildlife Service
2369 West Orton Circle
West Valley City, Utah 84115

Subject: USFWS 1996 Biological Opinion/Coordinated Review on the Incidental Boundary Change (IBC), First North Mining, Consolidation Coal Company, Emery Deep Mine, C/015/0015, Task ID #2222, Outgoing File

Dear Mr. Maddux:

On April 6, 2005 Consolidation Coal Company submitted an application for an incidental boundary change to add 348 acres of fee coal/fee surface to the permit area at the Emery Deep Mine. The permit boundary addition can be located on the Emery East 7.5 minuet quadrangle map approximately 2.5 miles south of the town of Emery, Utah in Township 22 South Range 6 East in portions of sections 22, 23 and 27. The proposed change is for development mining only.

The only potential impacts to wildlife species would be from subsidence. No subsidence is anticipated with this development mining, therefore, the applicant would not need to provide a Protection and Enhancement Plan at this time. However, prior to full extraction or second mining, the permittee will need to revise Chapter Nine of the Mining and Reclamation plan to include a list, (Appendix XII-2), of possible threatened, endangered and candidate plant and wildlife species identified in the U. S. Fish and Wildlife Service current listing for Emery County.

According to the study completed by Mt. Nebo Scientific the T&E wildlife species are not common to the proposed permit area expansion due to the lack of habitat required to sustain them. Of the wildlife species listed for Emery County, only one, the bald eagle, could potentially occur in the permit area. The bald eagle occurrence is most likely to be migration through the area rather than nesting or roosting. Most threatened or endangered species that could occur in Emery County occur at lower elevations than the Emery Deep Mine and have no habitat in the proposed permit area expansion.

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There are no threatened or endangered plant species known for the area according to information from Bob Thompson of the Forest Service, The Division of Wildlife Resources survey or the study performed by Mt. Nebo Scientific.

Potential water depletions from mining operations may have an affect on endangered fish species identified in pertinent fish recovery programs. Volumes of water consumed in mining processes in excess of 100-acre feet/year require mitigation with the U. S. Fish and Wildlife Service. Calculations for water depletions and gains from mining activities were provided in the 2003 Midterm Review, letter dated November 26, 2003 from John Gefferth to Lowell Braxton dated November 26, 2003. This letter describes the water consumed from mining consumption, (roof bolters, continuous miners, belt sprayers and miscellaneous dust suppression) for coal moisture at 6% as compared to the inherent coal moisture of 4%. The 2% difference was calculated in ac-ft per year, which is approximately 3.6-ac-ft per year. Water consumed from ventilation is approximately 25-ac-ft per year and mine water discharge is 420-ac-ft per year of water. Evaporation from the sediment pond would be negligible as there is a continuous inflow and discharge or outflow from the pond. The result is a net gain of 391.4-ac-ft per year of water.

The Division considers that the project will likely have no affect on T&E species or their habitat and the Permittee should receive clearance. Joe Helfrich discussed all of the above information about this project on May 31, 2005 with Diana Whittington. A letter to finalize your concurrence with our findings would be appreciated.

If you have any questions about this project, please call Joe Helfrich at (801) 538-5290, or me at (801) 538-5268.

Sincerely,

Pamela Grubaugh-Littig
Permit Supervisor

Jch/an
cc: Mike Glasson, Andalex Resources Inc.
Price Field Office
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