



State of Utah

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March 16, 2007

TO: Internal File

THRU: D. Wayne Hedberg, Permit Supervisor *DWH*

FROM: *JH* Joe Helfrich, Environmental Scientist, Biology

RE: DOGM's Informal Phone Consultation with USFWS and Informal Decision for The Emery Deep Mine 160-Acre IBC Extension, Consolidation Coal Company, Emery Deep Mine, C/015/0015, Task ID #2761

**DOGM TECHNICAL ANALYSIS SUMMARY:**

On September 13, 2006 the Division received an application from Consolidation Coal Company to add 160 acres to the existing permit boundary. During the week of February 5, 2007 this reviewer received several responses to the deficiencies enumerated in the Divisions letter to John Gefferth on January 17, 2007. On February 13, 2007 the Division received a formal written response to the deficiencies enumerated in the Divisions letter to John Gefferth on January 17, 2007. On March 6, 2007 the Division received a formal response to the deficiencies enumerated in the Divisions March 6, 2007 deficiency document. The additional permit acreage can be located on the Walker Flat 7.5 minuet quadrangle map, in SW1/4NW1/4, NW1/4SW1/4, NE1/4SW1/4, and SE1/4SW1/4 of Section 22, T. 22 S., R6E, SLBM. The project is intended to facilitate the uninterrupted mining and maximum recovery of the coal. There is no surface disturbance associated with this IBC.

**THREATENED, ENDANGERED, AND SENSITIVE ANIMAL/PLANT SPECIES**

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

The Emery County TES list includes Winkler Footcactus, Despain Footcactus, Barnabey's schoencrambe, Wright Fishhook Cactus, Last Chance Townsendia, Maguire Daisy, Jones Cycladene, bonytail chub, Colorado pikeminnow, humpback chub, razorback sucker, Mexican spotted owl (MSO), black-footed ferret, bald eagle, and western yellow-billed cuckoo (candidate).

Additional species in Utah's Sensitive species list include the following;

**Conservation Agreement Species**

Northern Goshawk

*Accipiter gentilis*

**Wildlife Species of Concern**

Grasshopper Sparrow

*Ammodramus savannarum*

Short-eared Owl

*Asio flammeus*

Burrowing Owl

*Athene cunicularia*

Ferruginous Hawk

*Buteo regalis*

Greater Sage-grouse

*Centrocercus urophasianus*

Black Swift

*Cypseloides niger*

Bobolink

*Dolichonyx oryzivorus*

Lewis's Woodpecker

*Melanerpes lewis*

Long-billed Curlew

*Numenius americanus*

American White Pelican

*Pelecanus erythrorhynchos*

Three-toed Woodpecker

*Picoides tridactylus*

Sharp-tailed Grouse

*Tympanuchus phasianellus*

Bald and Golden Eagles

Bald Eagles do not nest in the area but are typically inhabitants during migration. A raptor survey for the 4th East portal area was conducted in May of 2002. Survey results showed that there were one active, two inactive, and one dilapidated Golden Eagle nests on the cliffs in the canyons to the East and Southwest of the proposed permit area expansion. There were no nests within ½ mile of the proposed permit area expansion. The IBC application includes a reference to the results of the 2006 survey as Appendix D of the August 2006 exploration application. The application includes the results or data from the survey and a map. According to the information there are no nests or nesting raptors within ½ mile of the proposed IBC.

All supporting surveys (MRP) on TES plant and animal species show that there were no observations of threatened or endangered species in the areas surveyed. There have been no confirmed sightings of black-footed ferrets within Carbon County during 1995, 1996, and the first quarter of 1997 (DWR, Section 322.200).

The Division will not initiate a formal Consultation with USFWS for this 160-acre extension because there is no supporting data to suggest the presence of TE or their appropriate habitat, and because there is no surface disturbance for facilities.

Chapter II, page25a of the application includes criterion for estimating mine water consumption for present and future mining operations. Calculations and numbers and references have been included with the criteria that are used in determining the mine water consumption value in acre-feet per year. According to the figures in table VI-23B page 169 the predicted discharge of 1.5 cfs would be approximately 1,086 acre feet per year minus the consumptive losses of 48.5 acre feet per year equal a net gain of 1037.5 acre feet per year net gain to the Colorado River watershed system. According to the USFWS protocol this net gain would constitute a "No Effect" determination.

**DOGM INFORMAL, PHONE CONSULTATION WITH USFWS SUMMARY:**

The Division initiated informal consultation with the USFWS (Betsy Herrmann) on March 15, 2007 for this IBC application. Joe Helfrich informed Betsy that there was no surface disturbance for the extension area and no known T & E species according to the survey performed by Dr. Collins. Joe also discussed with Betsy the mine water consumption calculations for the mine that resulted in a net gain of 1037.5 acre feet per year net gain to the Colorado River watershed system.

**DOGM INFORMAL DECISION**

The Division's determination is that the proposed Emery Deep Mine 160-acre expansion is "No effect" to threatened or endangered species listed for Emery County because there would be no surface disturbance, there is no depletion of water from the Colorado River basin and there are no observations that support the presence of T & E species.