

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

January 20, 2009

TO: Internal File

THRU: Steve Christensen, Lead *SIC*

FROM: Ingrid Wieser, Environmental Scientist II *W*

RE: Full Extraction Pillar Splitting, Consol Energy Company, Emery Deep Mine, C/015/0015, Task #: 3086.

SUMMARY:

On November 30, 2007, the Division granted a conditional approval for Consol Energy Company's application for Full extraction for the 14th and 15th West panels and 8th North Main, 4th East Mains, 15th West, 6th West and 0 North panels.

On June 13, 2008, the Applicant submitted an application for full extraction of coal in panels 1, 2, 3 and 4 North, 1,2,3,4 and 5 West, 7,8,9,10,11,12 and 13 West, 8 South and 5 West Mains. The Division reviewed the application and identified several deficiencies. This memo is the second application review and will address the biology, land use and cultural resource sections of the application.

The Application is adequate for approval. Consol has agreed to conduct sensitive species vegetation and wildlife surveys in the spring of 2009, and consult with DOGM and other regulatory agencies if sensitive species are found.

TECHNICAL ANALYSIS:

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

TECHNICAL MEMO

VEGETATION RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.19; R645-301-320.

Analysis:

On August 20, 2008, the Division sent the Applicant a list of deficiencies regarding the initial application. Joe Helfrich identified the following deficiency:

R645-301-300: The Applicant needs to include information that addresses the Biology sections of the regulations.

Consol responded to this deficiency with the following, "*Refer to Chapter VIII, Appendix VIII-4, Biological Resources of the Full Extraction Pillar Splitting, Life of Mine Surface Area.*"

Mt. Nebo Scientific conducted the above-mentioned report in November of 2008. The report includes new and previous information from previously conducted studies over the past few years. Color photographs were taken of the above extraction area as well as of comparable vegetation communities adjacent to but outside the extraction area. Vegetation maps are included that were created by using aerial photographs and onsite field mapping. Wildlife habitat areas were identified in coordination with DWR's GIS database and maps.

The vegetation communities found on the above ground extraction area are identified in the report as: Greasewood, Pasture lands (including irrigated and dry), Riparian Shrublands, Russian Olive, Saltgrass, Shadscale, Tamarisk, and Wiregrass/Saltgrass communities. An abundance of non-native invasive plant species appears to occur in these plant communities including Tamarisk and Russian olive. The Riparian Shrubland community will be the only vegetation not effected by mining due to riparian area regulations.

The report also lists Threatened and Endangered plant species that may be found in the permit area. Mt. Nebo Scientific will conduct a sensitive species field survey during the growing season of 2009 to verify their presence.

Findings:

The information provided is adequate pending Division approval of the vegetation study that will be conducted in the spring of 2009.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

Analysis:

On August 20, 2008, the Division sent the Applicant a list of deficiencies regarding the initial application. Joe Helfrich identified the following deficiency:

R645-301-300: The Applicant needs to include information that addresses the Biology sections of the regulations.

Consol responded to this deficiency with the following, "*Refer to Chapter VIII, Appendix VIII-4, Biological Resources of the Full Extraction Pillar Splitting, Life of Mine Surface Area.*"

In the above-mentioned report, Mt. Nebo Scientific identifies wildlife habitats from previously conducted studies and from DWR GIS databases. Wildlife information is also shown on Plate 10-1, but the data is from 1980 and is outdated. The report identifies two sensitive species that could be found within the permit boundary which include, burrowing owls (*Athene cunicularia*), and white-tailed prairie dogs (*Cynomys leucurus*). Fieldwork for the presence of these two species will be conducted in the spring of 2009.

The report also includes a table titled, "Federally Listed Threatened, Endangered and Candidate Wildlife Species in Emery County, Utah." In this table, each species is listed as well as a description and a reason why it is not likely found in the permit area.

Findings:

The information provided is adequate pending Division approval of the wildlife study that will be conducted in the spring of 2009.

LAND-USE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.22; R645-301-411.

Analysis:

On August 20, 2008, the Division sent the Applicant a list of deficiencies regarding the initial application. Joe Helfrich identified the following deficiency:

TECHNICAL MEMO

R645-301-400: The Applicant needs to include information that addresses the Land Use sections of the regulations.

Consol responded to this deficiency with the following, "*Refer to Chapter VIII, Appendix VIII-4, Biological Resources of the Full Extraction Pillar Splitting, Life of Mine Surface Area.*"

This biological report does not address land use on the proposed extraction areas. In the land use section of the MRP (Part D of Chapter X) and on Plate VIII-1, 415 acres is designated as grazing/wildlife habitat, 19.5 acres represent industrial land use and the remaining 5.8 acres represent roads. The Land use chapter also states that the post mining land use will be grazing/wildlife upon reclamation, including all area described as industrial.

Findings:

The information provided is adequate to meet the minimum requirements for this section.

ALLUVIAL VALLEY FLOORS

Regulatory Reference: 30 CFR 785.19; 30 CFR 822; R645-302-320.

Analysis:

Alluvial Valley Floor Determination

On August 20, 2008, the Division sent the Applicant a list of deficiencies regarding the initial application. Joe Helfrich identified the following deficiency:

R645-301-320: The Permittee should discuss whether the proposed full extraction mining to be implemented at the site (See Plate V-5) could potentially impact the alluvial valley floors (AVF's) depicted on Plate XI-1.

The Applicant responded with the following, "*The proposed area of full extraction does not underlie any alluvial valley floors as depicted on Plate XI-1 (Alluvial Valley Floor Along Upper Quitchupah Creek), therefore no impacts are anticipated.*"

According to Plate XI-1, the only alluvial valley floors are located either outside the project boundary or over areas that were mined prior to regulations. The proposed extraction area is not located under alluvial valley floors.

Findings:

The information provided is adequate to meet the regulatory requirements for this section.

OPERATION PLAN

PROTECTION OF PUBLIC PARKS AND HISTORIC PLACES

Regulatory Reference: 30 CFR784.17; R645-301-411.

Analysis:

On August 20, 2008, the Division sent the Applicant a list of deficiencies regarding the initial application. Joe Helfrich identified the following deficiency:

R645-301-411: The application needs to include a narrative on how the eligible site, 42Em3837, will be avoided or a data recovery plan if the site cannot be avoided. (JH)

The Applicant responded to this deficiency stating, *“The referenced site 42Em3837 is not eligible per MOAC Report 08-135. Per MOAC Report 08-135, Site 42Em3924 is eligible for inclusion on NRHP under Criterion C. Consol does not intend to avoid mining under this structure. Please refer to Chapter X, App 5-9 for a mitigation plan.*

The Applicant submitted a report titled, Cultural Resource Inventory of Consolidation Energy’s Emery Life of Mine Full Extraction Parcels, which includes an Appendix A: Treatment Plan for the Mitigation of Portential Adverse Effects to 42Em3924, Emery County, Utah. This plan includes a detailed description of the eligible site and a future plan for documentation of the site. The Detailed documentation to be obtained includes: Scale drawings and description of the exterior and interior of the standing structures, an accurate site map using a total station, detailed photographs of the standing structures and their associations, periodic monitoring as subsidence occurs and a final site condition assessment. In the table of contents, a description of the monitoring schedule is included upon request of the Division. The monitoring schedule is as follows: Six months prior to subsidence and within 12 months after the onset of subsidence.

A final report detailing the project will be written and submitted to the Division upon conclusion of subsidence. Prior to approval of this mitigation plan, the Applicant must receive concurrence from the State Historic Preservation Office (SHPO).

TECHNICAL MEMO

Findings:

The information provided is adequate to meet the regulatory requirements pending SHPO compliance.

RECOMMENDATIONS:

The application can be approved at this time. It should be noted that this approval is granted with the understanding that Consol will conduct the vegetation, wildlife and historic site monitoring commitments set forth in the application.

O:\015015.EME\FINAL\WG3086\IW3086.doc