

C/O 5/018 Incoming
 CC: Joe Karl Ingrid
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 JUN 27 2012



U.S. DEPT. OF THE INTERIOR
 OFFICE OF SURFACE MINING
 Mine Site Evaluation
 State Program



1. Permittee/Person ENERGY WEST MINING		9. Permit Number UT-015-018	10. Permit Type PP
2. Address P. O. BOX 310		11. Field Visit Date 5/8/2012	12. Purpose OP
3. City HUNTINGTON		13. SRA Present Y	
4. State UT		14. Permit Status A	15. Site Status AP
5. Zip Code 84528	6. Phone Number (435) 687-4712	16. Facility Type BDEFG	
7. Operator Name, if Different than Permittee ENERGY WEST MINING CO.		17. OSM Office # 140	18. CCID #
8. Mine Name DEER CREEK MINE		19. Land Code SF	
		20. M.S.H.A. ID # 42-00121	21. State Abbrev. UT
		22. County/Burrough EMERY	
		23. AVS Permittee Entity ID Number	24. State Office

25. Hours	26. Signature Block	27. Reviewing Official:
2.0 a. Permit Review	<i>Elizabeth Shaeffer</i> Signature:	<i>Elizabeth Shaeffer</i> Signature:
2.0 b. Site Visit Time	Elizabeth Shaeffer, ID#377 Printed Name:	Review Date: 6-25-12 mm - dd - yyyy
8.0 c. Travel Time	Date: 6/25/2012	Is Supplemental MSE Page Used Y/N <input checked="" type="checkbox"/> Y
2.0 d. Report Writing		

Permit Type - Item 10 IP = Interim Program PP = Permanent Program NP = No Permit
 Purpose Type Codes - Item 12
 Oxx...Oversight RFX...Reclamation Fees CCR...Citizen Complaint Referral (non-site visit)
 Axx...Assistance Fxx...Federal Actions CC...Citizen Complaint (initial site visit)
 CCF...Assistance
 Joint Inspection - Item 13 A joint inspection is when a state inspector accompanies an OSM inspector at any time during the review of the mine site

Permit Status - Item 14
 A Active: Coal mining activities occurring or permitted but not yet disturbed.
 IN Inactive (Permanent Program Permit): Phase II completed or Temporary Cessation of Operations. (Interim Program Permit): Coal mining completed and reclamation activities initiated.
 BR Bond Release: Reclamation completed and State Regulatory Authority(RA) has released all of the bond (Phase III Release).
 AB Abandoned: All surface and underground coal mining activities have ceased and operator has left the site without completing reclamation as defined in 30 CFR 840.11(g).
 AB1 Bond Forfeiture: Bond forfeiture officially in process or completed and reclamation in progress or not yet commenced.
 AB2 Partially Reclaimed Forfeiture: Forfeited site where all bonds have been used to reclaim site, but site not reclaimed to Program standards.
 AB3 Reclaimed Forfeiture: Forfeited site that has been reclaimed to Program standards.
 NA Not Applicable: When site is unpermitted.

Site Status - Item 15
 ND No Disturbance: No coal mining and reclamation operations have been started.
 EX Coal Exploration: Coal exploration operations have started and where coal mining operations have not begun.
 AP Active Coal Producing: Coal surface mining activities are occurring.
 AN Active Non-Producing: Active non-producing facility such as tipple or preparation plant.
 NM No Mining: The Permit Status is active, site is not in Temporary Cessation, no surface coal mining activity, and site not regraded.
 MC Mining Complete: No mining activity on site, site regraded and awaiting bond release.
 TC Temporary Cessation: The RA has granted cessation of mining pursuant to 30 CFR 816/817.13(b).
 P1 Phase I Release: At least Phase I bond release granted for entire permitted area. For interim permits, partial bond release.
 P2 Phase II Release: At least Phase II bond release for the entire permitted area.
 P3 Phase III Release: Reclamation completed and the RA has released all bond.
 NS Non-Site Visit: Status of site not determined.
 FP Forfeiture Pending: The RA is pursuing actions to revoke the permit, collect the performance bond(s), and/or reclamation of forfeited site is in progress.
 FR Forfeited and Reclaimed: Forfeiture reclamation completed.
 FO Abandoned Site: Abandoned site that is permitted but there is no bond.
 WC Wildcat: Coal mining and reclamation operations have or are taking place and the activity is not covered by the required permits from the RA.

Facility Type Codes - Item 16
 A...Surface D...Ancillary (Haulroad, Conveyor, and/or Rails)
 B...Underground E...Refuse and/or Impoundment
 C...Preparation Plant F...Loading Facility and/or Tipple
 G...Stockpiles
 H...Exploration Permits
 I...Notice of Intent to Explore
 J...Exempt 16 and 2/3
 K...Government Financed Construction Exemption
 L...Remining site permitted under 30 CFR 785.25

Small Business Regulatory Enforcement Fairness Act (SBREFA)
 Your Comments are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you are a small business (a business with 500 or fewer employees including those of affiliates) and wish to comment on the enforcement or compliance activities of OSM, call 1-888-REG-FAIR (1-888-734-3247).

U.S. DEPT. OF THE INTERIOR
OFFICE OF SURFACE MINING
Mine Site Evaluation

Permittee/ Person <u>ENERGY WEST MINING</u>	Permit Number <u>UT-015-018</u>	Field Visit Date <u>5/8/2012</u>	State Program Continuation Page
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28. Performance Standard Categories

Codes:1=Compliance, 2=Noncompliance, 3=Not Planned, 4=Not Started, 5=Noncompliance Identified Elsewhere, 6=Previously Cited, 7=Permit Defect

<p>A. Administrative</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Mining within Valid Permit 2. <input type="checkbox"/> Mining within Bonded Area 3. <input type="checkbox"/> Terms & Conditions of Permit 4. <input type="checkbox"/> Liability Insurance 5. <input type="checkbox"/> Ownership and Control 6. <input type="checkbox"/> Temporary Cessation 7. <input type="checkbox"/> AML Rec. Fees - Non-Respondent 8. <input type="checkbox"/> AML Rec. Fees - Failure to Pay <p>B. Hydrologic Balance</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Drainage Control 2. <input type="checkbox"/> Inspections & Certifications 3. <input type="checkbox"/> Siltation Structures 4. <input type="checkbox"/> Discharge Structures 5. <input type="checkbox"/> Diversions 6. <input type="checkbox"/> Effluent Limits 7. <input type="checkbox"/> Ground Water Monitoring 8. <input type="checkbox"/> Surface Water Monitoring 9. <input type="checkbox"/> Drainage - Acid-Toxic Materials 10. <input type="checkbox"/> Impoundments 11. <input type="checkbox"/> Stream Buffer Zones <p>C. Topsoil & Subsoil</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Removal 2. <input type="checkbox"/> Substitute Materials 3. <input type="checkbox"/> Storage and Protection 4. <input type="checkbox"/> Redistribution 	<p>D. Backfilling & Grading</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Exposed Openings 2. <input type="checkbox"/> Contemporaneous Reclamation 3. <input type="checkbox"/> Approximate Original Contour 4. <input type="checkbox"/> Highwall Elimination 5. <input type="checkbox"/> Steep Slopes (includes downslope) 6. <input type="checkbox"/> Handling of Acid and Toxic Materials 7. <input type="checkbox"/> Stabilization (rills and gullies) <p>E. Excess Spoil Disposal</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Placement 2. <input type="checkbox"/> Drainage Control 3. <input type="checkbox"/> Surface Stabilization 4. <input type="checkbox"/> Inspections & Certifications <p>F. Coal Mine Waste (Refuse Piles/Impoundments)</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Drainage Control 2. <input type="checkbox"/> Surface Stabilization 3. <input type="checkbox"/> Placement 4. <input type="checkbox"/> Inspections & Certifications 5. <input type="checkbox"/> Impounding Structures <p>G. Use of Explosives</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Blaster Certification 2. <input type="checkbox"/> Distance Prohibitions 3. <input type="checkbox"/> Blast Survey/Schedule 4. <input type="checkbox"/> Warnings & Records 5. <input type="checkbox"/> Control of Adverse Effects 	<p>H. <input type="checkbox"/> Subsidence Control Plan</p> <p>I. Roads</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Road Construction 2. <input type="checkbox"/> Certification 3. <input type="checkbox"/> Drainage 4. <input type="checkbox"/> Surfacing and Maintenance 5. <input type="checkbox"/> Reclamation <p>J. Signs & Markers</p> <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Signs 2. <input type="checkbox"/> Markers <p>K. <input type="checkbox"/> Distance Prohibitions</p> <p>L. <input type="checkbox"/> Revegetation</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Vegetative Cover 2. <input type="checkbox"/> Timing <p>M. <input type="checkbox"/> Postmining Land Use</p> <p>N. Other</p> <p>General Performance Category</p> <p>_____</p> <p>_____</p> <p>_____</p>
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Performance Standard Categories 30 CFR Counterparts

<p>A. Administrative 1. Valid Permit 773.11 2. Mining within Bonded Area 773.11 3. Terms & Conditions of Permit 773.17 4. Liability Insurance 800.60 5. Ownership and Control 778.13 6. Temporary Cessation 842.11(e) & 816/817.131 7. AML Rec. Fees - Non-Respondent 870.15(b) 8. AML Rec. Fees - Failure to Pay 870.15(a)</p> <p>B. Hydrologic Balance (816/817.41-57) 1. Drainage Control 45 2. Inspections & Certifications 49(a)(10) 3. Siltation Structures 46 4. Discharge Structures 47 5. Diversions 43 6. Effluent Limits 42 7. Ground Water Monitoring 41(c) 8. Surface Water Monitoring 41(e) 9. Drainage - Acid - Toxic Materials 41(f) 10. Impoundments 49 11. Stream Buffer Zones 57</p> <p>C. Topsoil & Subsoil (816/817.22) 1. Removal 22(a) 2. Substitute Materials 22(c) 3. Storage and Protection 22(e) 4. Redistribution 22(d)</p> <p>D. Backfilling & Grading 816/817.95-107 1. Exposed Openings 816/817.13, 14, 15, & 823.11 & 21 2. Contemporaneous Reclamation 100 3. Approximate Original Contour 102(a)(1) 4. Highwall Elimination 102(a)(2) 5. Steep Slopes (includes downslope) 107 6. Handling of Acid & Toxic Materials 102(c) 7. Stabilization (rills and gullies) 95(b)</p>	<p>E. Excess Spoil Disposal (816/817.71-74) 1. Placement 71(e) 2. Drainage Control 71(f) 3. Surface Stabilization 71(g) 4. Inspections & Certifications 71(h)</p> <p>F. Coal Mine Waste (Refuse Piles/Impoundments) 816/817.81-84 1. Drainage Control 83(a) 2. Surface Stabilization 83(b) 3. Placement 83(c) 4. Inspections and Certifications 83(d) 5. Impounding Structures 84</p> <p>G. Use of Explosives (816/817.61-68) 1. Blaster Certification 61(c) 2. Distance Prohibitions 61(d) 3. Blast Survey/Schedule 62-64 4. Warnings & Records 66 & 68 5. Control of Adverse Effects 67</p> <p>H. Subsidence Control Plan (817.121-122)</p> <p>I. Roads (816/817.150-151) 1. Road Construction 150(c) 2. Certification 151(a) 3. Drainage 150(b)-151(d) 4. Surfacing and Maintenance 150(e)-151(d) 5. Reclamation 150(f)</p> <p>J. Signs & Markers 816/817.11 1. Signs 11(a),(b),&(c) 2. Markers 11(a),(b),(d),(e),&(f)</p> <p>K. Distance Prohibitions (761.11)</p> <p>L. Revegetation (816/817.111-116) 1. Vegetative Cover 111 & 116 2. Timing 113</p> <p>M. Postmining Land Use (816/817.133)</p>
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Deer Creek Mine Evaluation

Deer Creek Mine, Energy West Mining Company
Utah Division of Oil, Gas, and Mining (DOG M) Permit No. UT-015-018

May 8, 2012

Participants: Joe Helfrich, DOGM
Ingrid Campbell, DOGM
Karl Houskeeper, DOGM
Elizabeth Shaeffer, OSM, Badge #377
Chuck Semborski, Energy West Mining Company
Kenneth Fleck, Energy West Mining Company

Background:

The purpose of this evaluation was to evaluate whether DOGM (the Division) is implementing its approved regulatory program by ensuring that the Utah program is successful in preventing offsite impacts to listed or proposed threatened or endangered species by ensuring that operators follow a *Protection and Enhancement Plan* to minimize disturbances and adverse impacts to threatened and endangered species (when species are identified within the permit area) as a result of mining activities, and whether mine operators are complying with applicable regulatory and permit requirements pertaining to the minimization of adverse impacts to threatened and endangered species and their habitat during coal mining and reclamation operations.

The Federal Rules at 30 CFR 816/817.97(b) and Utah Administrative Code at R645-301-358.100 state that:

“No coal mining and reclamation operation will be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973. The operator will promptly report to the Division any state- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the Division will consult with appropriate state and federal fish and wildlife agencies and, after consultation, will identify whether, and under what conditions, the operator may proceed.”

The Division requires that each *Mining and Reclamation Plan* include a list of proposed or listed threatened or endangered species and the probability of presence in the permit area. In some circumstances, the Division may require surveys or other site-specific resource information necessary to address the respective species or habitats when the permit area or adjacent area is likely to include listed or proposed endangered or threatened species of plants or animals or their critical habitats. The Division requests that this list and site-specific resource information be updated when the operator wants to increase or change their permit area or mining practices.

If a listed or proposed endangered or threatened species of plants or animals or their critical habitat is identified on the permit area, the Division consults with the appropriate State and Federal fish and wildlife agencies and the landowner to determine under what conditions the operator may proceed with mining. These conditions may include avoiding certain areas, developing a habitat mitigation plan, animal or plant relocation, periodic surveys, or a combination of these.

Inspection:

The Team met with Kenneth Fleck and Chuck Semborski of Energy West Mining Company at their office in Huntington, Utah. The group discussed recent instances where T and E species were conducted at the mine. In 2005, the mine constructed a new Portal Facility in Rilda Canyon. Prior to the project, research was conducted to determine if any T and E species were present in the area related to the Rilda Canyon Portal Facilities. The following examples demonstrate that the Deer Creek Mine conducted the appropriate activities to ensure the protection of T and E species prior to the mine's expansion.

Flora

In 2003, Mt. Nebo Scientific conducted an in-depth vegetation analysis of the area related to the Rilda Canyon Portal Facilities. Based on populations of certain T and E plant species previously being found to inhabit the upper area near the Rilda Canyon Facilities area, Mt. Nebo Scientific stated that there was a potential for Canyon sweetvetch and Link Canyon Trail columbine to be present in the area, which the Forest Service had listed as "sensitive" in the Manti-LaSal National Forest. Neither these plants nor their ideal habitats were observed within the study areas during the course of the field sampling and surveys.

Fauna

A Habitat Suitability Determination Report was written in 2005. This report focused on the Mexican Spotted Owl (MSO) because a United States Fish and Wildlife Service (USFWS) habitat suitability model had identified Rilda Canyon as containing habitat or potential habitat for the MSO. It was determined that the area, although having many of the characteristics necessary for MSO habitat, was not inhabited by the MSO. Section 4.0 of the *MSO Habitat Report* (Appendix F) states that:

"Although Rilda Canyon does contain many of the habitat constituents for the Arizona and New Mexico MSOs that could deem the area as suitable habitat, it is known that the MSOs in Utah tend to nest in lower elevations (8000 feet) and in Sandstone Formations. The Manti-LaSal National Forest has conducted numerous surveys over the last four years in areas with similar habitat constituents; the oil and gas industry has also conducted surveys in several canyons with similar habitats approximately five miles north. No MSOs have been located as a result of these surveys. *** Based on the surveys completed in the same general area, with similar habitat components, and the absence of MSOs; it would be reasonable to conclude that surveys in this area are not warranted."

This mine has experienced situations where Wildlife Exclusionary Periods were implemented to protect T and E species from disturbances associated with helicopter-assisted drilling. Typically,

the total disturbance time for drilling and exploration holes at this site is seven days, and rarely exceeds ten days. Because of the limited availability of water from nearby springs that is essential for drilling operations, the mine has a narrow window of opportunity for drilling. Each May, the mining company conducts raptor surveys to determine if there are any active raptor nests near the drilling sites. If an active nest is found inside the half-mile spatial buffer area created to protect the raptor species, the mine must reroute the helicopter flight paths. Site visits are often conducted to determine occupancy of a known species' habitat. This is a great example of minimization of adverse impacts to threatened and endangered species and their habitat during coal mining and reclamation operations.

Impacts to endangered Colorado River Fish, including the Colorado pikeminnow, razorback sucker, humpback chub, and bonytail fish that inhabit the lower warm water reaches of the Colorado, Green, Yampa, White, and Gunnison Rivers is also a concern regarding the protection of T and E species. Currently, Utah participates in the Upper Colorado River Endangered Fish Recovery Program (established in 1988 by The Secretary of the Interior, Governors of Colorado, Wyoming, and Utah, and the Administrator of the Western Area Power Administration) as a way to offset water depletions, thereby providing a method to mitigate the impacts to endangered fish. As part of the recovery program, calculations must be performed to determine if consumption of water from coal mining is contributing or will contribute to water depletions, thereby affecting fish habitat.

During the processing of a new permit application, a determination must be made as to the amount of water that will be depleted from the upper Colorado River Watershed as a result of the proposed coal mining activity. Existing coal mine operations have been required to revisit the water depletion calculations if a proposed change to the MRP has the potential to significantly increase the amount of depletion from the Colorado River Watershed.

The Deer Creek Mine has submitted calculations which show that water consumption from mining operations does not significantly impact the Colorado River fish or their habitat.