



United States Department of the Interior

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
BROOKS TOWERS
1020 15TH STREET
DENVER, COLORADO 80202



In Reply Refer To:

September 7, 1989

MEMORANDUM

TO: Chief, Federal Programs Division

THROUGH: Chief, Federal Lands Branch *R. Singh*

FROM: Rick Holbrook, Senior Project Manager *Rick Holbrook*

SUBJECT: Recommendation to Terminate Federal Permit UT-0015, Utah Power and Light Company, Des-Bee-Dove Coal Mine, Emery County, Utah.

I. Recommendation

I recommend termination of Federal permit UT-0015, issued on June 20, 1985, for the Utah Power and Light Company's Des-Bee-Dove mine. My recommendation is based on the existence of the Utah cooperative agreement which provides for the delegation to the Utah Division of Oil, Gas, & Mining (DOG M) of the permitting responsibilities for operations on Federal lands pursuant to Section 523 of the Surface Mining Control and Reclamation Act (SMCRA); the issuance of the Utah State permit ACT/015/017 in accordance with the Utah State program and cooperative agreement; incorporation of all necessary Federal permit conditions in the State permit; and the approved mining plan for Federal leases, U-02664, SL-050133 and SL-066116. Attached to this memorandum are the applicable standard and special conditions of approval of the Des-Bee-Dove mine mining plan approved by the Assistant Secretary on June 3, 1985, for Federal leases U-02664, SL-050133 and SL-066116. These conditions were previously incorporated in the Federal permit. Notwithstanding the termination of the Federal permit, these conditions will remain in full force and effect.

Utah DOGM has reviewed the permit application package (PAP) for the Des-Bee-Dove mine under the Utah State program and cooperative agreement (30 CFR 944.30) and has issued Utah permit ACT/015/017 authorizing surface coal mining and reclamation operations on Federal and non-Federal lands in the permit area pursuant to the State program and cooperative agreement. A copy of the bond in the amount of \$1,837,712, payable to the United States and the State of Utah, is on file with the Office of Surface Mining Reclamation and Enforcement (OSM).

This permit termination is categorically excluded from the National Environmental Policy Act (NEPA) process because the Federal permit and mining plan approval were previously covered by the NEPA process (i.e., OSM's Environmental Assessment and Finding of No Significant Impact dated April 17, 1985).

OSM is presently consulting with the U.S. Fish and Wildlife Service to update the information related to the effect of the Des-Bee-Dove mining operations on endangered species. However, this action is not discretionary; and therefore, is not subject to the requirements of Section 7 of the Endangered Species Act.

II. Background

The Des-Bee-Dove underground coal mine is located in Emery County, Utah, about 7 miles north of Orangeville, UT. The Utah State permit area contains approximately 2,847 acres, approximately 1,520 acres of which are leased Federal coal in the mining plan area for Federal leases U-02664, SL-050133 and SL-066116.

The Des-Bee-Dove mine mining plan was originally approved under the Federal lands program on June 3, 1985, and the mine was permitted by OSM under the Federal lands program and Utah State program on June 20, 1985. Since the original approval of the mining plan, there have been no mining plan modifications.

OSM's Albuquerque Field Office was consulted on August 17, 1989 and has indicated that no pending enforcement actions are associated with the Federal permit for the Des-Bee-Dove mine.

The Federal permit contained the following 5 special conditions of approval:

Condition #1 required alternative sediment control plans for the Desert Sediment Pond site. An OSM letter of November 13, 1986 concurred with the DOGM finding that this stipulation has been satisfactorily addressed.

Condition #2 requires that if toxic materials are encountered, the permittee obtain permission from the Manti-LaSal National Forest Supervisor to bury the waste on National Forest System lands, or submit for approval an alternative site. This is a standing stipulation which will be included in the mining plan document.

Condition #3 required Utah Power and Light Company (UP&L) to either obtain written permission from the Forest Service to relocate the access gate to the mine facilities, or leave the gate at its current location. A UP&L letter of April 1, 1988 (in concert with the DOGM Mid-Term Review) commits to leaving the access gate at its present location. Plate 4-2, Drawing CM-10343-DS, No. 3 of 5, locates the access gate in its historic location.

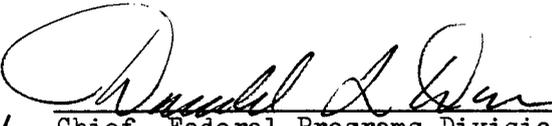
Condition #4 required the permittee to demonstrate long-term stability with the construction of Station 125+00, along the Des-Bee-Dove/Wilberg Junction road. An OSM letter of October 11, 1985 and DOGM letter to UP&L, approving the response of Condition #4 indicates that the company has satisfactorily addressed this condition.

Condition #5 requires that if subsidence within the permit area may adversely affect known or unrecorded cultural sites, that the permittee will conduct additional cultural resource studies as required. This is a standard condition which will be included in the mining plan document.

The standard and special conditions of the existing mining plan approval are appended to this memorandum as Attachment A.

III. Approval:

I approve the termination of Federal permit UT-0015, issued on June 20, 1985, for the Des-Bee-Dove mine. The applicable standard and special conditions of the mining plan approved by the Assistant Secretary on June 3, 1985, are appended as Attachment A and remain in full force and effect notwithstanding this permit termination approval.



for Chief, Federal Programs Division
Western Field Operations
Office of Surface Mining Reclamation and Enforcement

9/11/89
Date

Attachment

CONDITIONS
OF
MINING PLAN APPROVAL

This document contains the applicable conditions of approval of the Des-Bee-Dove mine mining plan approved on June 3, 1985, for Federal coal leases U-02664, SL-050133 and SL-066116. Utah Power and Light Company is hereinafter referred to as the lessee/operator.

Condition 1. Statutes and Regulations.--The mining plan approval was made pursuant to Federal coal leases U-02664, SL-050133 and SL-066116; the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.); and in the case of acquired lands, the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351 et seq.). The mining plan approval is subject to all applicable regulations of the Secretary of the Interior including, but not limited to, 30 CFR Chapter VII and 43 CFR Group 3400, and to all regulations of the Secretary of Energy, which are now or hereafter in force; and all such regulations are made a part hereof. The lessee/operator shall comply with the provisions of the Water Pollution Control Act (33 U.S.C. 1151 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.) and other applicable Federal laws.

Condition 2. The current mining plan approved on June 3 1985, covers all or portions of Federal coal leases U-02664, SL-050133 and SL-066116 as described below:

Township 17 South, Range 7 East, Salt Lake Meridian;

Section 11, E1/2, E1/2 W1/2; Section 12, W1/2 NW1/4, NW1/4 SW1/4; Section 13, SE1/4 SW1/4; Section 14, W1/2, W1/2 E1/2, NE1/4 NE1/4, SE1/4 SE1/4; Section 23, All; Section 24, W1/2, W1/2 SE1/4; Section 25, W1/2 SW1/4; Section 26, N1/2, N1/2 SE1/4, NE1/4 SW1/4; Portions of the SE1/4 SE1/4; Section 35, Portions of the E1/2 E1/2; Section 36, Portions of the N1/2 NW1/4;

Township 18 South, Range 7 East, Salt Lake Meridian;

Section 2, Portions of the W1/2 NE1/4, Portions of the NE1/4 SW1/4;

as shown on the map appended hereto as Exhibit A.

Condition 3. The lessee/operator shall conduct coal development and mining operations only as described in the complete permit application package approved by the Utah Division of Oil, Gas, & Mining, except as otherwise directed in the conditions of the mining plan approval as contained herein.

- Condition 4. The lessee/operator shall comply with the terms and conditions of the leases and the approved mining plan, and the requirements of the Utah Permit number ACT/015/017 issued under the Utah State program, approved pursuant to the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).
- Condition 5. The mining plan approval shall be binding on any person conducting coal development or mining operations under the approved mining plan and shall remain in effect until superseded, cancelled, or withdrawn.
- Condition 6. The lessee/operator shall allow the authorized representatives of the Secretary, and the Utah Division of Oil, Gas, & Mining, 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 842.13, 43 CFR Group 3400, and W.S. 35-11-109; and
 - b. Be accompanied by private persons for the purpose of conducting an inspection in accordance with 30 CFR 842.12 and WRR Ch. XVII, Sec. 1, d and e, when the inspection is in response to an alleged violation reported by the private person.
- Condition 7. If during the course of mining operations previously unidentified prehistoric or historic resources are discovered, the lessee/operator shall ensure that the resources are not disturbed and shall notify Utah Division of Oil, Gas, & Mining and OSM. The lessee/operator shall take such necessary actions as are required by Utah Division of Oil, Gas, & Mining in coordination with OSM.
- Condition 8 Special Conditions.--In addition to the terms and conditions set out in the leases and Utah Permit number ACT/015/017, the lessee/operator shall comply with the conditions appended hereto as Exhibit B.

EXHIBIT B

Special Conditions

1. If toxic materials are encountered at the Des-Bee-Dove Mine complex, the permittee shall either obtain written permission from the Forest Supervisor (Manti-LaSal National Forest) and the regulatory authority to bury toxic-waste material on National Forest System lands, or submit for approval, by the regulatory authority an alternate site for burying toxic waste material.
2. At such time OSM, in consultation with the Utah Division of Oil, Gas, and Mining and the SHPO, determines that subsidence within the permit area may adversely affect known or unrecorded cultural sites, additional cultural resources studies may be required. This determination will be based on new subsidence or cultural resource information and clear justification will be presented to the permittee.