

0001



SCOTT M. MATHESON
Governor

OIL, GAS, AND MINING BOARD

GORDON E. HARMSTON
Executive Director,
NATURAL RESOURCES

STATE OF UTAH

CHARLES R. HENDERSON
Chairman

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF OIL, GAS, AND MINING

CLEON B. FEIGHT
Director

1588 West North Temple
Salt Lake City, Utah 84116
(801) 533-5771

JOHN L. BELL
C. RAY JUVELIN
THADIS W. BOX
MAXILIAN A. FARBMAN
EDWARD T. BECK
E. STEELE McINTYRE

December 22, 1980

Mr. Merrill Heward
Manager, Mining & Exp.
Utah Power & Light Company
P.O. Box 899
Salt Lake City, Utah 84110

RE: Utah Power & Light Company
Deer Creek Mine
ACT/015/018-A
Emery County, Utah

Dear Mr. Heward:

Earlier this year, litigation brought by industry and other plaintiffs resulted in a favorable decision by the U.S. Court of Appeals for the District of Columbia Circuit. Judge Flannery's decision called for certain regulations to be remanded for revision. Among those which were remanded for revision were regulations requiring mine plans to contain fish and wildlife information and a plan (30 CFR 779.20, 780.16, 783.20 and 784.21). Similarly, the Utah Board of Oil, Gas and Mining suspended the corresponding state regulations at their November hearing in order that Utah's program would be acceptable to the Secretary under Flannery's ruling. Thus, at this time Utah has no regulations requiring wildlife information and a plan and could not disapprove a mine plan lacking these items. However, it is likely that the operator will need to present in some manner the method of compliance with wildlife and reclamation performance standards which have remained intact.

The Division views this situation as an opportunity to work with the operators in formulating regulations which are more compatible with Utah's program. Your input is sincerely welcomed for the revision of these regulations.

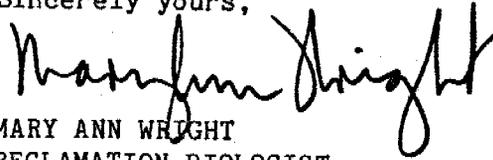
The enclosed wildlife information guidelines were compiled by the Division as a result of the consultation begun earlier with the agencies having jurisdiction over fish and wildlife and habitat in the mine plan area. Due to the legal status, as explained, these guidelines are simply a suggestion to the operator at this time.

Mr. Merrill Heward
December 22, 1980
Page Two

Also enclosed are the guidelines for the design and construction of electric power lines for compliance with performance standard part UMC 817.97(c).

Should any questions arise concerning these matters, please call me.

Sincerely yours,



MARY ANN WRIGHT
RECLAMATION BIOLOGIST

MAW/te

Enc: Guidelines

cc: Shirley Lindsay, O.S.M.
Clark Johnson, U.S.F.W.S.
D.W.R.

Utah Power & Light Company
Deer Creek Mine
ACT/015/018-A

Guidelines for Fish and Wilflife and Habitat
Information Pursuant to UMC 783.20

Aquatic Studies

1. Biological Community Survey - UMC 817.57.

Area: Any streams to be impacted by development of surface operations within 100 feet of the streams, specifically Meetinghouse Creek and Huntington Canyon.

Time: Spring, Summer.

Purpose: Determine the presence or absence of any "biological communities", as defined in UMC 817.57 for the designation of buffer zones. The Division will make buffer zone determinations.

2. Fish Study

Area: Meetinghouse and Huntington Creek.

Time: Utilize existing data.

Purpose: Identify from existing data the potential occurrence, relative abundance, status, populations trend and preferred habitat of fish found within the mine plan area.

Terrestrial Studies

1. Federally Listed Threatened or Endangered Species Survey

For your information concerning threatened and endangered species, the letter from the U.S. Fish and Wildlife Service is provided.

2. Big Game Study

Area: Deer Creek Conveyor.

Time: Migration periods of deer in the area.

Purpose: It is suggested that Utah Power & Light Company document existing use of the conveyor length by mule deer passing between summer and winter range. Incidental documentation when snow is on the ground could be done in some simplified format such as weekly recording of tracks, pictures, and noting whether the conveyor is operating when a deer is observed crossing underneath.

The opportunity exists for Utah Power & Light Company to provide information as an input to the long standing assumption that conveyors carrying coal often block deer and elk migration routes to winter range and cause deer and elk to be afraid to go under noisy conveyors even where underpasses exist.

It is further suggested that minimization of adverse impacts and enhancement of the resource (UMC 817.97) could be achieved by providing a deeper underpass in those areas of the conveyor which may be found to be utilized by big game.

3. Survey of All Other Vertebrates--Amphibians, Reptiles, Birds and Mammals

Area: Permit and mine plan area.

Time: Literature survey.

Purpose: Provide information on presence and preferred habitat type for all species inhabiting the mine plan area. Present habitat preference information to correlate with data collection from habitat (vegetation) studies.

4. Habitat Survey

Area: Mine plan area.

Time: Year-round.

Purpose: To assess the condition, trend and types of habitat within the mine plan area. In the course of other field studies, areas of special use for wildlife, such as heavily used riparian areas, large mammals dens and snake dens, should be noted and mapped. Refer to vegetation guidelines.