

# **State Decision Document**

## **PacifiCorp**

**201 South Main Street  
Salt Lake City, Utah 84140-0021  
(801) 220-4618**

**Mill Fork Lease  
Deer Creek Mine  
C/015/018-PM01I**

**March 5, 2003**

**UTAH DIVISION OF OIL, GAS AND MINING  
STATE DECISION DOCUMENT AND  
TECHNICAL ANALYSIS**

**Pacificorp  
Mill Fork Lease Extension  
Deer Creek Mine  
C/015/018  
Emery County, Utah**

**March 5, 2003**

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## **ADMINISTRATIVE OVERVIEW**

Pacificorp  
Mill Fork Lease Extension  
Deer Creek Mine  
C/015/018  
Emery County, Utah

March 5, 2003

### **PROPOSAL:**

PacifiCorp submitted an application for the Mill Fork Lease (State Lease ML-48258), to the Division of Oil, Gas and Mining on October 29, 2001. The coal tract as described in the lease contains 5,562.82 acres, more or less. With the Mill Fork Lease, PacifiCorp controls, through ownership and leasing certain fee coal lands together with assigned federal coal leases, nearly 30,000 acres of contiguous minable property located in Emery County, Utah. PacifiCorp is proposing to expand the Deer Creek Mine to include the Mill Fork lease. This expansion would involve increasing the acreage of the Deer Creek permit by 5,562.82 acres to approximately 22,620.90 acres. This represented about 64 million tons of minable coal to be produced over the life of the mine in this area.

This proposal for mining in the Mill Fork lease area would be done through the Deer Creek portals as an extension of current underground mining operations in the Blind Canyon and Hiawatha seams. Both development and longwall mining methods are proposed to be used and subsidence is contemplated for much of the area. No additional surface disturbance is requested with this application.

### **BACKGROUND:**

The original permit for the Deer Creek Mine was issued February 7, 1986 for approximately 14,620 acres. The mining plan for Federal leases SL-064607-064621, SL-064900, SL-070645, U-1358, U-02292, U-084923, U-084924, U-083066, U-040151, U-044025, U-014275, U-024319, and U-47979 was approved on October 11, 1985 for the Deer Creek Mine. A Waste Rock Storage Facility was added September 1988. The permit was renewed on February 7, 1991.

The January 8, 1993 mining plan approval (IBC-1) added 120 acres of coal (80 acres in a portion of Lease No. U-47977 and 40 acres in a portion of Lease No. SL-050862). The July 22, 1993 mining plan approval (IBC-2) added 160 acres (80 acres in a portion of Lease U-47977 and 80 acres in a portion of Lease SL-050862).

PacifiCorp submitted an application for the Rilda Canyon Lease Extension which included Leases U-7653, U-47977, U-06039, and SL-050862 on February 12, 1990 and resubmitted an application on February 8, 1994. This submittal was revised on June 27, 1994 as an incidental boundary change (IBC-3) to include development mining only in U-06039, U-47977, and SL-050862 (approximately 100,000 tons). Included in the revised application was longwall mining the Second, Third and Fourth East panels and development mining in the Third North Mains and the Sixth East Gate. Longwall mining would proceed in areas that were previously approved as incidental boundary changes with mining plan approval dates of January 8, 1993 (IBC-1) and July 22, 1993 (IBC-2). Entry development mining in the Third North Mains and the Sixth East Gates entailed about 40 acres beyond the the approved permit boundary in Leases U-06039, U-47977 and SL-050862. IBC-3 was approved July 28, 1994.

The Rilda Canyon Lease Extension to mine in federal leases U-7653, U-47977, SL-050862, part of U-06039, and state lease ML-22509 was approved on December 13, 1994.

A modification to lease U-06039 (not requiring mining plan approval) to mine 42.97 acres (or approximately 100,000 tons) was submitted on May 26, 1995 and approved on June 13, 1995.

Construction of the surface facilities in Rilda Canyon was a significant revision to the Deer Creek Mine permit and was submitted on March 29, 1994. The approval to construct surface facilities in Rilda Canyon was granted on July 31, 1995 with nine conditions. All of the conditions were met on November 8, 1995.

PacifiCorp submitted an application for the North Rilda Area (which included Federal Leases U-24317, U-2810, U-06039, SL-051221 and fee coal), for a total of 1960 acres on February 4, 1997. This application was approved on July 15, 1997, which brought the total permitted area of the Deer Creek Mine to approximately 18,706 acres.

In order to access the Mill Fork lease, PacifiCorp acquired a lease modification to lease U-06039. This modification, consisting of 65.7 acres, was added to the Deer Creek permit on August 14, 2002 as an incidental boundary change.

With the addition of the 5,562.82 acres of the Mill Fork Lease the permit acreage will total approximately 22,620.90 acres. There has been much discussion about the correct permit area description and the correct permit acreage. It is felt that the acreage figures presented in the Mill Fork Lease Application are now accurate.

The Division of Oil Gas and Mining has conducted an Administrative and Technical Analysis of the proposed mine Permit Application Package and has produced a written TA. All appropriate State and Federal agencies have been consulted regarding this proposal. It has been

determined that the Applicant has the legal right to enter and conduct mining operations in the proposed permit area through an acquired lease. The probable hydrologic consequences of the action have been analyzed and a Cumulative Hydrologic Impact Assessment (CHIA) has been prepared. All requirements for public participation have been satisfied. The application meets the requirements of the Utah Coal Regulatory Program.

### **COMMENTS:**

During the review process, comments were received by various entities. On February 21, 2002, Craig Smith attorney for Huntington-Cleveland Irrigation Company expressed concern for the water resources (especially Little Bear Spring) that could be impacted by the mining and requested an informal conference to discuss the issues. Subsequent discussions by Mr. Lowell Braxton with Mr. Smith, determined that an informal conference was not needed and that an informational meeting would be held instead (See March 11, 2002 letter from Lowell Braxton to Craig Smith).

Again on February 21, 2002, the Division received a letter from Darrel Leamaster, Manager of the Castle Valley Special Service District, in which he expressed concern about mining in the Mill Fork Tract that could affect their water resources (especially Little Bear Spring). He wanted to make sure mitigation and water replacement were appropriately accounted for. Although Mr. Leamaster did not request an informal conference, he was invited to attend the informational exchange meeting that was being set up for the Huntington-Cleveland Irrigation Company. The Division also responded to Mr. Leamaster in a letter from Mary Ann Wright dated April 11, 2002, which verified that the Applicant would be held responsible for water replacement as required by the coal rules

The Division did hold an information exchange meeting on March 6, 2002 with representatives of the Huntington-Cleveland Irrigation Company, Castle Valley Special Service District and PacifiCorp in attendance. There were no objections to mining, but everyone wanted to insure that the water resources would be protected or that mitigation would be provided for.

The USDI Manti-Lasal National Forest Supervisor's office also provided comments in letters dated February 25, 2002, June 20, 2002, January 16, 2003 and February 28, 2003. The February 28, 2003 letter indicates that all previous comments have now been addressed with the exception of three areas. The Forest Service did not want to allow mining that could cause subsidence until these issues have been resolved. These three areas are discussed below.

- 1) The Forest Service contends that the text and maps are inconsistent in describing subsidence protection for the Merit Oil Company gas production well. They refer to drawing MFS1839D as showing full-extraction through the gas well protection zone. It is understandable that this comment could be made if looking only at drawing MFS1839D. However, this drawing is the pre-subsidence survey map and should not be used to infer areas of mining. The better map to use in this case would be

drawing MFS1840D which clearly shows that longwall mining is not planned within the 15 degree angle of draw.

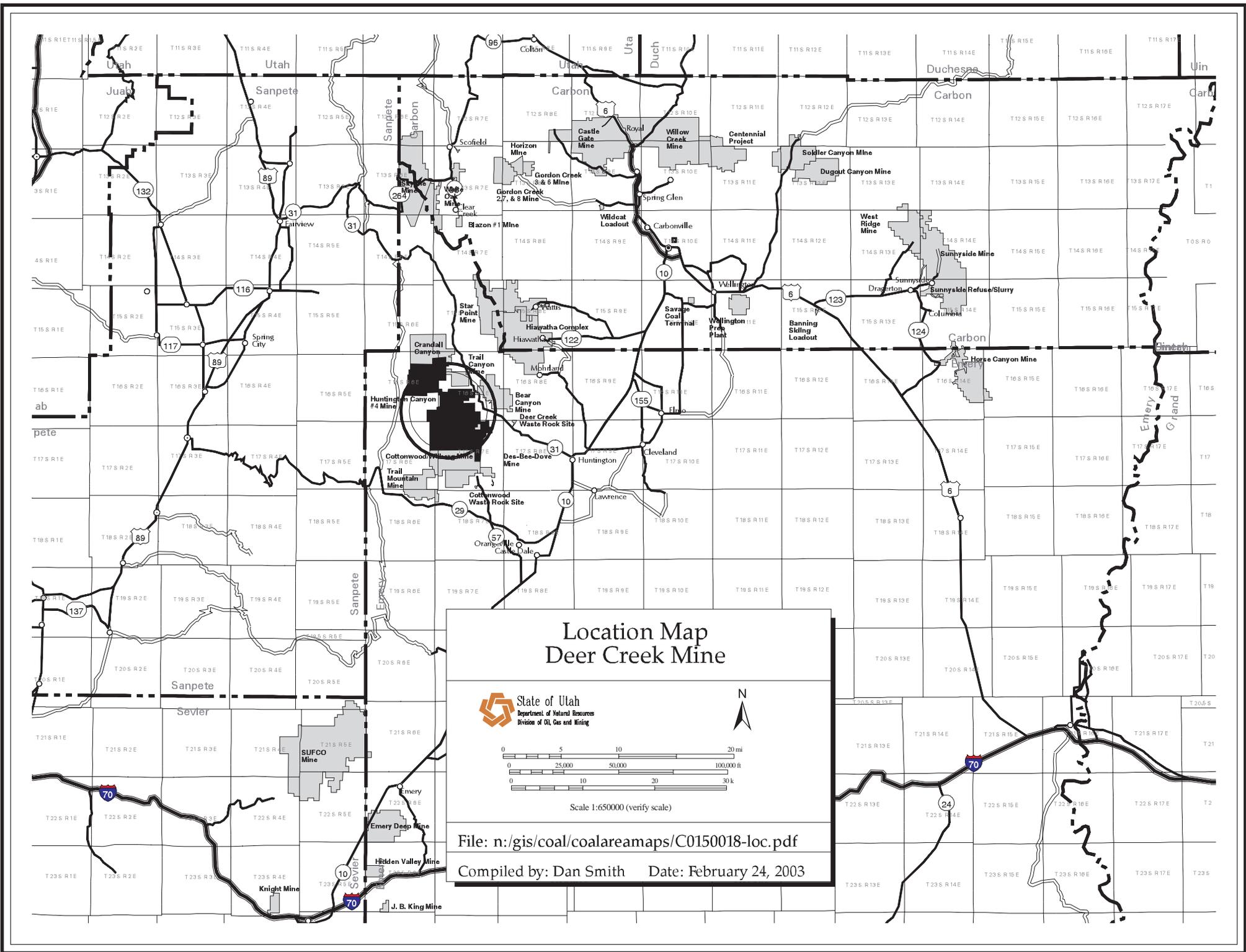
- 2) The Forest Service contends that the application does not adequately address protection of a 345 KV power transmission line against subsidence. They again cite drawing MFS1839D which shows development mining underneath the power line and longwall mining within a 15 degree angle of draw. They also point out a discrepancy in the plans where the text states on page 5-23 that the power line will not be undermined, but the maps show that development mining is planned directly underneath the power line. Again the wrong drawing was probably used in reviewing this portion of the plan. Drawing MFS1866D shows the projected subsidence zones and provides a clearer picture of the areas that could be subsided. This map does show that the power line would be outside of the area to be affected by subsidence when using the historical subsidence data and analysis that the mine has spelled out in their plan. However, the discrepancy between the statement on page 5-23 and the maps still exists. A condition will be placed on the permit that requires PacifiCorp to correct the discrepancy in the plan (page 5-23 statement vs. mine plan drawings) with regard to undermining the power line and requires them to obtain comments from the power line owners with regard to the mine's proposed mining plan before mining in the vicinity of the power line.
  
- 3) The Forest Service contends that a statement is needed in the appropriate section of the Mining and Reclamation Plan acknowledging that a Special-Use Permit Application and detailed Mine Plan Amendment will be submitted at least one year in advance of plans to construct the breakout in Crandall Canyon and that required approvals, permits, and consent/concurrence will be obtained prior to any work on the ground. It is the Division's opinion that this statement is unnecessary since obtaining the necessary approvals and permits is required regardless of any statement in the Mining and Reclamation Plan. However, the company has provided the following statement in various locations throughout the plan which should satisfy any concerns in this regard. *Prior to planned development, PacifiCorp will comply to Special Stipulation #5 in the Mill Fork Coal Lease, "The limited area available for mine facilities at the coal outcrop, steep topography, adverse winter weather, and physical limitations on the size and design of access roads, are factors which will determine the ultimate size of the surface area utilized for the mine. A site specific environmental analysis will be prepared for each new mine site development and for major improvements to existing developments to examine alternative and mitigate conflicts".*

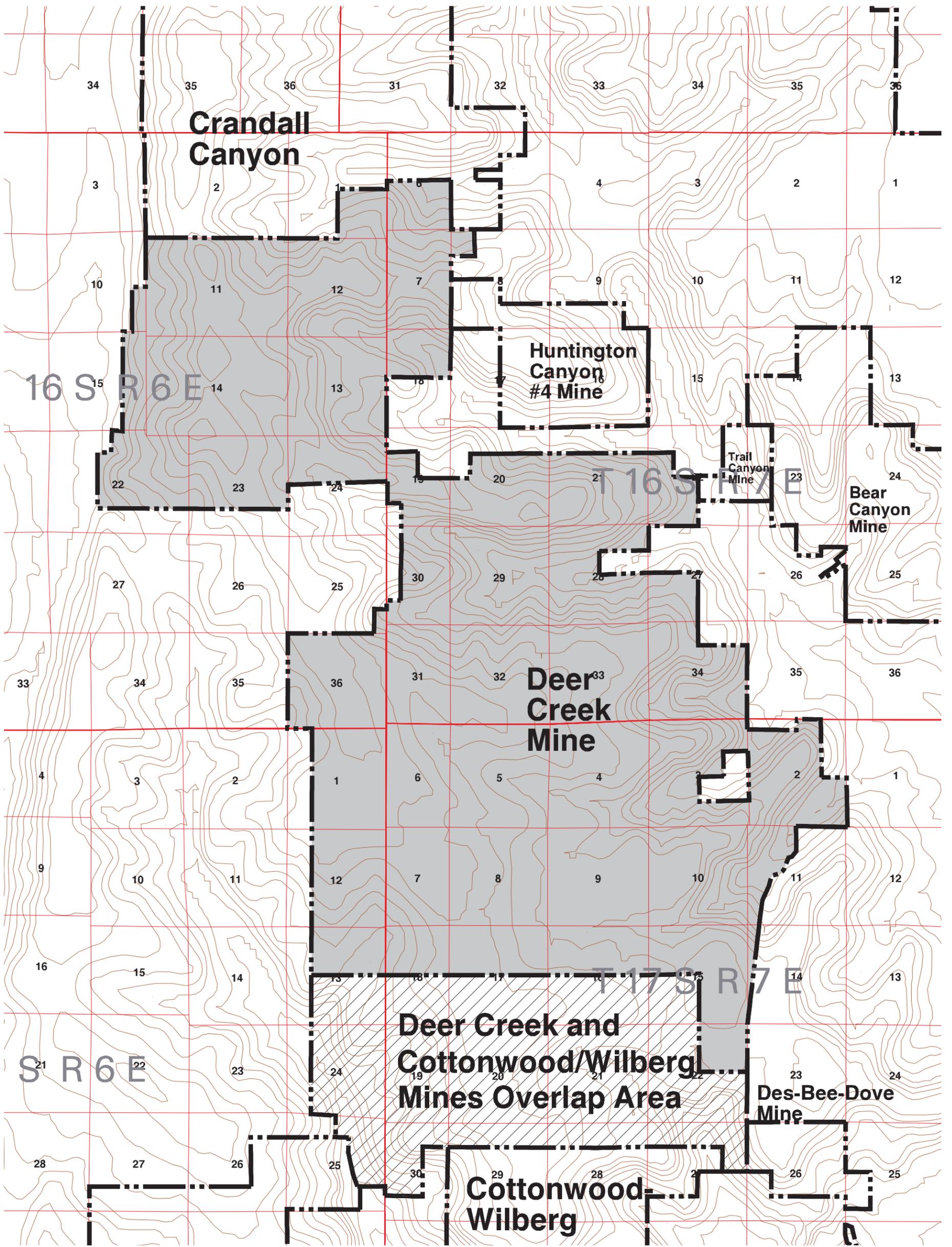
The Division has considered the comments received and has discussed them with the commentors. The majority of the comments have been addressed in the application by the Permittee. One condition will be placed on the permit to correct a discrepancy identified. Since the three issues raised by the Forest Service have been addressed, there is no need to curtail mining that would cause subsidence.

**RECOMMENDATION:**

This recommendation is based on the complete permit application package (PAP), the Technical Analysis (TA) conducted by the Division, the Cumulative Hydrologic Impact Assessment CHIA also prepared by the Division, and the administrative record. PacifiCorp has demonstrated that mining within the permit boundary can be done in conformance with the Surface Mining Control and Reclamation Act, and the corresponding Utah Act and performance standards. The 510 (c) report on the Applicant Violator System was verified for this mine on February 12, 2003 and there are no violations.

It is recommended that approval be given to allow both development and longwall mining in the Mill Fork Lease Extension to the Deer Creek Mine with the conditions summarized as Attachment A to the Permit.





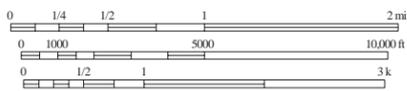
General Area Map  
Deer Creek Mine

PERMIT AREA MAP

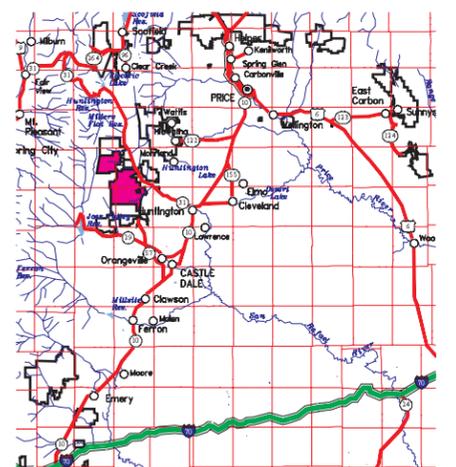
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Compiled by: Dan Smith Date: February 24, 2003

--- Permit Area



Scale 1:60000 (verify scale)



Area Map

## PERMITTING CHRONOLOGY

Pacificorp  
Mill Fork Lease Extension  
Deer Creek Mine  
C/015/018  
Emery County, Utah

March 5, 2003

- October 29, 2001 PacifiCorp submits the permit application package for adding the Mill Fork Lease Tract to the Deer Creek Mine.
- December 18, 2001 The permit application was determined administratively complete. PacifiCorp is instructed to publish a Notice of Complete Application in the local newspaper and place a copy of the application in the county courthouse.
- December 20, 2001 The Division sent letters to state, federal and local planning agencies notifying them of the complete permit application and soliciting their comments.
- January 1, 8, 15, and 22, 2002 This permitting action, intent to add the Mill Fork Lease Tract to the Deer Creek Mine, is published in the Emery County Progress for four consecutive weeks.
- February 4, 2002 Division completes a technical review of the application and sends a Technical Analysis to the applicant identifying deficiencies that need to be corrected.
- February 8, 2002 SHPO concurs by letter with the recommendation that No Historic Properties will be impacted with the development of the Mill Fork Lease at the Deer Creek Mine.
- April 18, 2002 Division receives PacifiCorp's response to deficiencies.
- October 10, 2002 Division completes a second technical review of the application and sends a Technical Analysis to the applicant identifying remaining deficiencies that need to be corrected.

December 4, 2002	PacifiCorp submits more responses to deficiencies.
January 31, 2003	Division completes a third technical review of the application and sends a Technical Analysis to the applicant identifying remaining deficiencies that need to be corrected.
February 12, 2003	AVS check completed with issue recommendation.
February 13, 2003	Response to deficiencies received.
February 24, 2003	OSM issues a determination that this action does not constitute a mining plan modification
March 3, 2003	TA completed, All regulatory requirements have been met.
March 3, 2003	CHIA completed
March 5, 2003	Decision Document completed and Permit issued.

## FINDINGS

Pacificorp  
Mill Fork Lease Extension  
Deer Creek Mine  
C/015/018  
Emery County, Utah

March 5, 2003

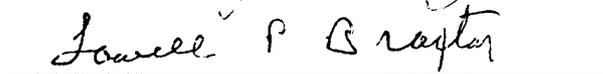
1. The permit application for the extraction of coal from the Mill Fork Lease at the Deer Creek Mine is accurate and complete and all requirements of the Surface Mining Control and Reclamation Act, and the approved Utah State Program (the "Act") are in compliance. See Technical Analysis dated March 3, 2003 (R645-300-133.100)
2. The applicant proposes acceptable practices for the reclamation of disturbed lands. The Division has determined that reclamation, as required by the Act can be feasibly accomplished following the approved plan with the attached permit conditions. No new surface disturbance will occur with the Mill Fork Lease Extension. (R645-300-133.710)
3. An assessment of the probable cumulative impacts of all anticipated coal mining and reclamation activities on the hydrologic balance in the general area has been conducted by the Division and no significant impacts were identified. See CHIA dated March 3, 2003. The Mining and Reclamation Plan (MRP) proposed under the revised application has been designed to prevent damage to the hydrologic balance in the permit area and in associated off-site area (R645-300-133.400 and UCA 40-10-11 (2)(c)).
4. The proposed lands to be included within the permit area are:
  - a. Not included within an area designated unsuitable for underground coal mining operation (R645-300-133.220);
  - b. not within an area under study for designated land unsuitable for underground coal mining operations (R645-300-133.210);
  - c. not on any lands subject to the prohibitions or limitation of 30 CFR 761.11 {a} (national parks, etc), 761.11 {f} (public buildings, etc.) and 761.11 {g} (cemeteries);
  - d. not within 100 feet of a public road except at the location where the public road accesses the property(R645-300-133.220); and
  - e. not within 300 feet of any occupied dwelling (R645-300-133.220).

5. The operation would not affect the continued existence of any threatened or endangered species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973. See Technical Analysis dated, March 3, 2003 and letter from U. S. Fish and Wildlife Services dated February 11, 2003 (16 USC 1531 et seq.) (R645-300-133.500).
6. The Division's issuance of a permit is in compliance with the National Historic Preservation Act and implementing regulations (36 CFR 800). See Technical Analysis, dated March 3, 2003. See letter from State Historic Preservation Office, dated February 8, 2002. (R645-300-133.600)
7. The applicant has the legal right to enter and complete mining activities in the permit area through the coal lease issued by the School and Institutional Trust Lands Administration (SITLA). (R645-300-133.300)
8. A 510 (c) report has been run on the Applicant Violator System (AVS), which shows that: prior violations of applicable laws and regulations have been corrected; neither PacifiCorp nor any affiliated company, are delinquent in payment of fees for the Abandoned Mine Reclamation Fund; and the applicant does not control and has not controlled mining operations with demonstrated pattern of willful violations of the Act of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act (A 510 (c) report was run on, February 11, 2003, see memo to file dated February 12, 2003). (R645-300-133.730)
9. Underground mining operations to be performed under the permit will not be inconsistent with other operations anticipated to be performed in areas adjacent to the proposed permit area. Plans for protection of other facilities in the permit area, such as transmission lines and a gas well have been provided. The permittee has provided adequate mining and reclamation plans, including subsidence control plans, to allow development and longwall mining to occur in the Mill Fork lease tract.
10. The applicant has posted a surety bond for the Deer Creek Mine in the amount of \$3,000,000 issued by Travelers Casualty and Surety Company of America (Surety Number 103908970) (R645-300-134).
11. No lands designated as prime farmlands or alluvial valley floors occur on the permit area. See Technical Analysis dated March 3, 2003 and Decision Notice/FONSI for Mill Fork Lease Tract dated September 23, 1997 (R645-302-313.100 and R645-302-321.100).
12. The proposed postmining land-use of the disturbed area is the same as the pre-mining land use and has been approved by the Division and the surface land management agency, the Forest Service. No postmining land-use change has been proposed for the Mill Fork Lease area.

13. The Division has made all specific approvals required by the Act, the Cooperative Agreement, and the Federal Lands Program. This action does not constitute a Federal Mine Plan Modification. See OSM determination letter dated February 24, 2003.
14. All procedures for public participation required by the Act, and the approved Utah State Program have been complied with. The public advertisement was published on January 1, 8, 15, 22, 2002 in the Emery County Progress. (R645-300-120)
15. No existing structures will be used in conjunction with this mine. This is an underground extension of an existing mine with no new surface facilities being proposed at this time (R645-300-133.720).

  
Permit Supervisor

  
Associate Director of Mining

  
Director