



United States Department of the Interior
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

In Reply Refer To

FWS/R6
ES/UT

February 11, 2003

RECEIVED

FEB 14 2003

DIV. OF OIL, GAS & MINING

Daron R. Haddock
1594 West North Temple, Suite 1210
P.O. Box 145801
Salt Lake City, Utah 84114-5801

Jacoming OK
C/015/018
Copy Aaron, Jerrann
and Susan

RE: Informal section 7 Endangered Species Consultation, SITLA Lease ML-48258 Mill Fork
Lease Extension; Pacificorp, Deer Creek Mine, C/015/018-PM01I-2, Emery County

Dear Mr. Haddock:

The U.S. Fish and Wildlife Service (Service) has reviewed your letter of February 6, 2003. Potential impacts to proposed or listed species from mining activities have been previously addressed in the Service's September 24, 1996 Biological Opinion and Conference Report on Surface Coal Mining and Reclamation Operations under the Surface Coal Mining and Reclamation Act of 1977. As part of the terms and conditions of this BO, the regulatory authority must implement and require compliance with any species-specific protective measures developed by the Service field office and the regulatory authority.

Calculations of water consumption by mining operations and gain show that the net total is estimated to be a net gain of 2,453 acre-feet. Based on the information that this project will not result in depletion to the Colorado River system, we concur with your "not likely to adversely affect" determination for the Colorado pikeminnow, humpback chub, bonytail, and razorback sucker. Therefore, no endangered species-specific protective measures for these fish are considered necessary for the subject project.

The Willey-Spotskey 2000 Habitat model for Mexican spotted owl (MSO) and U.S. Forest Service on-the-ground knowledge (Rod Player, personal communication, February 11, 2003) indicate there is no potential nesting habitat within the Mill Fork permit area in the proposed extension. The 1997 Willey-Spotskey model predicted nesting habitat where none exists, so we agree that the 2000 model is more accurate in this case. There will also be negligible impact from mining subsidence to 1.6 of 182 acres of predicted potential foraging habitat within this expansion. Based on the information that this project does not contain nesting habitat for the MSO and will involve no above-ground operations, we concur with your "not likely to adversely affect" determination for the Mexican spotted owl.

Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

Only a Federal agency can enter into formal Endangered Species Act section 7 consultation with the Service. A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such a designation. The ultimate responsibility for compliance with ESA section 7, however, remains with the Federal agency.

We commend your agency's continued efforts to conserve endangered and sensitive species, including raptors. In this instance, we appreciate that the permittee has committed to continue ongoing annual raptor surveys. In addition, the permittee will be requiring new surveys for raptors prior to longwall mining in an area that has not been recently surveyed. As you are aware, we have developed and recommend the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* to assist agencies and individuals with raptor-sensitive project planning. Seasonal and spatial buffers of inactivity are recommended for raptor nest sites.

We appreciate your interest in conserving endangered species. If further assistance is needed or you have any questions, please contact Diana Whittington, at (801) 975-3330 extension 128.

Sincerely,



for Henry R. Maddux
Utah Field Supervisor

cc: OSM - Denver (Attn: Ron Sassaman)
UDWR - Salt Lake City (Attn: Frank Howe)