

From: Dale Harber <dharber@fs.fed.us>
To: <pamgrubaughlittig@utah.gov>
Date: 11/7/2005 11:26:46 AM
Subject: Fw: final resolution

----- Forwarded by Dale Harber/R4/USDAFS on 11/07/2005 10:52 AM -----

Alice
Carlton/R4/USDAFS
11/04/2005 06:39 PM
To Dale Harber/R4/USDAFS@FSNOTES,
Michael Davis/R4/USDAFS@FSNOTES
cc
Subject
final resolution

Here it is. Monday, we'll mail 2 copies of my original signature to Kevin and get his original signature, since all I have is faxed signatures tonight. Thanks, Alice

(See attached file: UEC appeal resolution Rilda Final.doc)

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**United States
Department of
Agriculture**

**Forest
Service**

**Manti-La Sal
National Forest**

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File Code: 2820-4

Date: November 4, 2005

Appeal Resolution
between
Utah Environmental Congress
and the
Manti – La Sal National Forest

Per our resolution discussions regarding the October 13, 2005 administrative appeal filed by Utah Environmental Congress (UEC) of the Deer Creek Coal Mine Plan Modification (Fed. Coal leases U-06039, U-2810, SL-050862, SL-051221) Decision Notice/Finding of No Significant Impact and Environmental Assessment, we have created the following agreement.

The parties hereby agree as follows:

1. Manti-La Sal National Forest (MLSNF) Supervisor Alice Carlton is the Responsible Official for the appealed decision and has authority to commit the Forest Service to the terms of this agreement. UEC Executive Director Kevin Mueller commits the UEC to the terms of this agreement.
2. UEC hereby withdraws its October 13, 2005 administrative appeal of the Supervisor's decision to the Regional Forester. As required, UEC will mail a letter to the Regional Forester withdrawing the appeal.
3. The MLSNF shall include the following mandatory stipulations in its consent to OSM, regarding the mine plan modification for the Rilda Canyon facility, and concurrence to the Utah Division of Oil, Gas, and Mining (DOG M) for permitting associated with the mine plan modification for the Rilda Canyon Facility.
 - A) The mine operator shall implement an aquatic and riparian ecosystem improvement project in Rilda Creek that is the product of coordination among the Forest Service (including the Forest Fisheries Biologist and/or Forest Hydrologist) and Utah Division of Wildlife Resources (including the Fisheries Biologists). The objective of the project is to actively improve the aquatic and riparian ecosystem in Rilda Canyon below the proposed PacifiCorp facilities. Examples include but are not limited to raising the water table, improving cottonwood galleries, riparian, and aquatic habitats, containing dispersed camping, and reducing sediment. The specifics of the restoration project to be implemented will be developed, planned and monitored by the above Forest Service and UDWR biologists, and will be funded and implemented by PacifiCorp. Project implementation must begin no later than the field season following issuance



of the permitting for the Rilda Canyon facility, providing that the permitting is completed prior to 6 months before the end of that year's field season. If the permitting is completed less than 6 months prior to the end of the field season, the ecosystem improvement project will begin the following field season. The ecosystem improvement project must be completed no later than five years thereafter.

Annual monitoring or progress reports will be required. They will be prepared jointly by UDWR and the Forest Service and made available to UEC, DOGM, PacifiCorp, and the public. A copy of each annual report will be mailed to UEC each year. The results of each year's macroinvertebrates monitoring (see following section) will be included with each annual report mailed to the UEC. The FS, DOGM, and UEC will evaluate each annual monitoring report for 5 years following the beginning of aquatic and riparian ecosystem improvement project to determine if the project is moving towards its goals. If it appears that those goals are not being approached, the group will re-evaluate the ecosystem improvement project and modify those portions that are not successful, and the company will implement modified portions during the next field season.

B) The mine must commit to monitoring macroinvertebrates and water quality at 2 locations in Rilda Creek (upstream and downstream of the project area). Samples may be collected with the same protocol used by UDWR for the initial, baseline studies. However, the macroinvertebrates monitoring shall be done at least twice each year (dates to be determined by Forest Hydrologist/Fisheries Biologist) for 5 years after approval of the Rilda Canyon Facility project. This data and any supplemental reports will be included in the annual progress reports that will be mailed to the UEC. BCI will be included in the metrics calculated from the samples. At the end of 5 years, if macroinvertebrates do not meet the original Forest Plan standards (1986, as amended) including a BCI of 75, the Manti-La Sal N.F. will work with DOGM and will make a good faith effort to contact UEC, to meet, review data, and discuss actions available to resolve water quality and/or macroinvertebrate concerns. The mine shall then implement those actions as required by DOGM with Forest Service concurrence to resolve those macroinvertebrate and water quality problems.

C) The approximately 200 acres of timber harvesting said to be included for (big/small game and migratory bird) Wildlife Mitigation on Table 300-5 (page 21 of 'R645-301-300 Biology' document) is removed. It is recognized that removal of the timber harvesting component of Table 300-5 may result in other parts of this measure not occurring.

Signed:

_____/s/ Kevin Mueller _____ Date: _11/04/05_____
 Kevin Mueller,
 Executive Director
 Utah Environmental Congress

_____/s/ Alice Carlton _____ Date: _11/04/05_____
 Alice Carlton,
 Forest Supervisor
 Manti-La Sal National Forest