

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

January 28, 2005

TO: Internal File

THRU: D. Wayne Hedberg, Permit Supervisor

THRU: Jim Smith, Lead

FROM: Joe Helfrich, biology, Big Game Species

RE: Amendment of Volume 11, North Rilda Area, Pacificorp, Energy West Mining Company, Deer Creek mine, C/015/0018, Task #2093

SUMMARY:

On December 17, 2004 the Division received an application to amend the Deer Creek mining and reclamation plan. The application includes a plan to develop a 12acre parcel and install two portals in Rilda Canyon. The area is approximately 12 miles up Huntington Canyon from the town of Huntington. The area can be located on the Rilda Canyon 7.5 minute U. S. G. S. quadrangle map SW1/4NE1/4, section 29, T.16S. R.7E. This memo will include a review of the Biology section of the regulations with the emphasis on Big Game species.

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TECHNICAL ANALYSIS:

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

Analysis:

The Biology section for this application is included in chapter three of volume 11. Big Game and other species are listed on page 8, table 300-3 (Other Wildlife Species of Consideration). They include Mule Deer, Rocky Mountain Elk, Mountain Lion, Black Bear, Wolverine, Golden Eagle and Macroinvertebrates. The table also includes a listing of species habitat association and Rilda habitat information for each species. Mule Deer, Elk and Moose habitats are delineated on maps 300-3, 4 and 5 respectively. Their habitats are also common to the proposed disturbed area. The entire Rilda Canyon area is noted as habitat for Mountain Lion and Black Bear. Wolverine and Lynx habitats are referenced as a web site map created by the Division of Wildlife Resources. Their habitats being common to the Rilda Canyon area.

Additional big game information can be found on page 11, paragraph 4 under II. Terrestrial Species with references to big game habitat maps. The application includes an operation plan that outlines a protection and mitigation plan for wildlife species common to the proposed development area, pages 16-19. The reclamation plan also addresses protection of fish and wildlife, page 24.

Findings:

The information provided in the application is adequate to meet the requirements of this section of the regulations.

MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

Analysis:

The application includes vegetation and habitat maps for the big game species common to the proposed Rilda Canyon development area. Chapter three, page 11 paragraph 4 of the application states that “Mule Deer, Elk and Moose habitats have been mapped for the permit and adjacent areas”. Page 16 paragraph three also references the Big game species maps. These maps are incorrectly referenced as 300-2, 3 and 4. The reference should be revised to indicate that the Deer, Elk and Moose habitat are located on maps 300-3, 4 and 5. The maps should also include the size and location of the proposed 13.1 acre disturbance.

Findings:

The information provided in the application is not adequate to meet the requirements of this section of the regulations. Prior to approval the Permittee must provide the following in accordance with:

R645-301-323; Page 16 paragraph three also references the Big game species maps. The maps are incorrectly noted as 300-2, 3 and 4. The reference needs to be revised to indicate that the Deer, Elk and Moose habitat are located on maps 300-3, 4 and 5. The maps need to include the size and location of the proposed 13.1 acre disturbance

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Protection and Enhancement Plan

The application includes an operation plan located in volume 11 chapter three, pages 16 through 19. Within that plan the permittee has included “methods, devices, and procedures to protect fish, wildlife and stream degradation during construction and operation activities”. With regard to the first method, (Reduced disturbed footprint), Map 500-1 needs to be revised to reflect the locations and acreages of the 4.4 acres of pre disturbed areas. As noted in this section of the application the pre disturbed areas were reclaimed in 1988. The areas were topsoiled, re-

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contoured and seeded. Since the vegetation is established and the areas are considered critical winter habitat for deer and elk there would not be a reduction in the disturbed area footprint. However 4.4 acres or 33.6% of the proposed disturbed 13.1 acres would be considered pre disturbed reclaimed land. This method does not apply to this section of the application and should be removed or revised. However there is merit to a reduced footprint when comparing to the original plan that did not include stacking facilities. But, the plan has changed so significantly since its inception, that the Permittee may not want to include this comparison. Additional Big Game species considerations include #5. "Buffer Zone markers placed along the south disturbed border to make construction workers aware of the location of the stream. #6. Reduced speed limit on the mine access road." # 11. Indicates that the facilities will be located below the stream crossing at the forks of Rilda Canyon to allow Big Game access from one fork of Rilda Canyon to the other. #12. "Material haulage to the existing Rilda Canyon Fan will be discontinued. Wildlife mitigation commitments for Big Game include;

1. For the Leroy mine area; buried coal removal and landscape enhancement. Since the site was reclaimed by the Abandoned Mine Lands section of the Division of Oil Gas and Mining in 1988 it would not be considered a wildlife mitigation commitment. The removal of the buried coal will merely provide a proposed location for the construction of the sediment pond.

2. For the AML areas outside the proposed disturbed area. The permittee proposes to cooperate with the AML and Forest Service to reclaim and enhance the Leroy Mine area. This project was completed by the AML section in 1988. According the AML staff there are no future plans for additional enhancement work. This would not be considered a wildlife mitigation commitment

3. For the aspen regeneration in Meetinghouse Canyon, the permittee has proposed to cooperate with the Division of Wildlife Resources, (DWR), in a timber harvest and aspen regeneration on 200 acres of private land. The permittee needs to include in the application a detailed plan for the regeneration of Aspen on the 200 acres of private land.

These items, (1, 2 and 3), would not be considered wildlife mitigation or enhancement/protection commitments. This section of the application should be revised to include a protection and enhancement plan that describes how the impacts to Big Game species from the development of the surface facilities and increased traffic along the road will be mitigated. According to the Forest Service the proposed surface disturbance will be located in the area that was to be set aside as big game mitigation for the development of the fan portal facilities in the left fork of Rilda Canyon. That being the case the permittee would also need to mitigate for the previous portal development. Any enhancement plan must include at least the overseeing agency or other group, general objective and location of the project, date of expected implementation and completion, and required reporting. Suggested mitigation projects for Big Game species include;

- The purchase of SITLA properties in Rilda Canyon;

- Funds provided to the Forest Service for prescribed burning;
- The purchase of properties in Mill Fork canyon;
- Participation with DWR on mule deer and elk tracking programs;
- Implementation of an employee awareness program that addresses highway deer kill and the impacts to raptors;
- Participation with USFS on a ponderosa improvement project for the flammulated owl;
- Participation with USFS on sagebrush improvement for mule deer, sage grouse, Brewers sparrow, and sage sparrow.
- Funding towards noxious weed program within Rilda and lower Huntington Canyons and;
- The protection of property from further mining activities in Meetinghouse Canyon.

For protection of Big Game species the Permittee also commits to conducting construction activities during months that would minimize impacts to breeding and birthing activities. The plan should also specify that construction activities would not interfere with the activities of deer and elk during periods of high stress, such as when the animals are utilizing the same area from early winter through late spring. Exclusionary periods (Vol. 11, p. 300-10), for elk and deer, should specify that the wintering period is from November 1 through May 15, and calving period is from May 1 through May 15.

Wetlands and Habitats of Unusually High Value for Fish and Wildlife

The proposed disturbed area will be located in Critical Deer and Elk winter range including some riparian areas. These would be considered habitats of unusually high value for these species of wildlife. The proposed disturbed area will potentially impact 13.1 acres of deer and elk critical winter range. According to estimates from Terry Nelson, (Wildlife Biologist for the Manti La-Sal National Forest), approximately 1148 acres of critical deer and elk winter range would be potentially impacted by the development of the surface facilities and increased traffic along the road. The estimate is based on a .5mile corridor of displacement along the road and around the proposed disturbed area that is scaled down using topographic features. The Forest Service typically requires 3 acres of mitigation for each acre impacted. The application for the proposed Rilda Canyon development area has not addressed this section of the regulations.

Findings:

The information provided in the application is not adequate to meet the requirements of this section of the regulations. Prior to approval the Permittee must provide the following in accordance with; **R645-301-322, -301-333, -301-342, -301-358;**

Protection and Enhancement Plan

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With regard to the first method, (Reduced disturbed footprint), Map 500-1 needs to be revised to reflect the locations and acreages of the 4.4 acres of pre disturbed areas. As noted in this section of the application the pre disturbed areas were reclaimed in 1988. The areas were topsoiled, re-contoured and seeded. Since the vegetation is established and the areas are considered critical winter habitat for deer and elk there would not be a reduction in the disturbed area footprint. However 4.4 acres or 33.6% of the proposed disturbed 13.1 acres would be considered pre disturbed reclaimed land. This method does not apply to this section of the application and should be removed or revised.

Wildlife mitigation commitments for Big Game include;

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3. For the aspen regeneration in Meetinghouse Canyon, the permittee has proposed to cooperate with the Division of Wildlife Resources, (DWR), in a timber harvest and aspen regeneration on 200 acres of private land. The permittee needs to include in the application a detailed plan for the regeneration of Aspen on the 200 acres of private land.

These items, (1, 2 and 3), would not be considered wildlife mitigation or enhancement/protection commitments. This section of the application should be revised to include a protection and enhancement plan that describes how the impacts to Big Game species from the development of the surface facilities and increased traffic along the road will be mitigated. According to the Forest Service the proposed surface disturbance will be located in the area that was to be set aside as big game mitigation for the development of the fan portal facilities in the left fork of Rilda Canyon. That being the case the permittee would also need to mitigate for the previous portal development. Any enhancement plan must include at least the overseeing agency or other group, general objective and location of the project, date of expected implementation and completion, and required reporting. Suggested mitigation projects for Big Game species include;

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RECLAMATION PLAN

PROTECTION OF FISH, WILDLIFE, AND RELATED ENVIRONMENTAL VALUES

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Analysis:

Wildlife protection measures during reclamation are described in Volume 11 chapter three, section R645-301-342 pages 24 and 25. The application needs to include an exclusionary period during the reclamation of the site. The plan should specify that reclamation activities would not interfere with the activities of deer and elk during periods of high stress, such as when the animals are utilizing the area from early winter through late spring. Exclusionary periods for elk and deer should specify that the wintering period is from November 1 through May 15, and calving period is from May 1 through May 15.

Findings:

The information provided in the application is not adequate to meet the requirements of this section of the regulations. Prior to approval the Permittee must provide the following in accordance with; **R645-301-333, -301-342, -301-358**; the application needs to include an exclusionary period during the reclamation of the site. The plan should specify that reclamation activities would not interfere with the activities of deer and elk during periods of high stress, such as when the animals are utilizing the area from early winter through late spring. Exclusionary periods for elk and deer should specify that the wintering period is from November 1 through May 15, and calving period is from May 1 through May 15.

RECOMMENDATIONS:

The application is not recommended for approval at this time.