

# EXPLORATION TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

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June 15, 2006

TO: Internal File

THRU: Pamela Grubaugh-Littig, Permit Supervisor

FROM: Jerriann Ernstsens, Ph.D., Environmental Scientist, Biology.

RE: Minor Coal Exploration, PacifiCorp, Deer Creek Mine, C/015/0018, Task ID # 2512

## **SUMMARY:**

The Division received the Notice of Intention in October 2005 and response to deficiencies on May 4, 2006 that addresses minor coal exploration drilling of 11 holes. This memo reviews the biology and archeology sections of the notice.

The USFS authorized the approval for beginning earlier than the July 15<sup>th</sup> date. Wildlife concerns associated with an earlier start up date have been addressed. DOGM will include a stipulation that the Permittee must update their plan to include all the conditions that the USFS, USFWS, and DOGM approved (phone 6/1/06: Diana Whittington, Tom Lloyd, Jerriann Ernstsens). The conditions that the Permittee must follow in order to start drilling in June include the following:

- Assign the Joes Valley staging area as the primary staging area rather than the Millfork staging area, which is within the 0.5-mile buffer of an active nest.
- Provide clarification that the primary staging area is now Joes Valley and any other related information.
- Move the Millfork staging area farther west to avoid overlap with one of the nests.
- Provide an updated map showing the new location of the Millfork staging area.
- Monitor the active nest (#1210) that is near three proposed drill hole sites prior to any mining-related activity of the three drill sites.
- Provide the monitoring agreement in the plan. The final agreement among the agencies differs from the Permittee's plan emailed on 5/30/06 (Jerriann Ernstsens). The Permittee must use the 6/1/06 approved monitoring condition.

- Provide a report the appropriate contact at the USFS (Tom Lloyd), USFWS (Diana Whittington), and DOGM (Jerriann Ernstsen) of monitoring results for #1210 within 24 hours of the survey.
- Provide clarification that the Permittee will adhere to protection measures for raptors if any holes (1-11) are drilled after 2006, within 0.5-mile buffer zone, and within the exclusionary period. Protection measure will depend on the year, raptor survey results, and consultation with the three agencies.
- Replace the information discussing the goshawk habitat to reflect the most current USFS habitat/territory designation (email 6/1/06: Tom Lloyd). Remove the unrelated and unnecessary information considering the exceptional approval based on water availability, this information does not relate to the deficiency and confuses the point.
- Provide all maps with raptor nest locations as confidential information for both the hard and electronic copies.

## **COAL EXPLORATION**

Regulatory Reference: R645-200.

## **REQUIREMENTS FOR NOTICE OF INTENTION TO CONDUCT MINOR COAL EXPLORATION**

Regulatory Reference: 30 CFR 772.10; 30 CFR 772.11; R645-100-412; R645-201-200.

### **Analysis:**

The Mine and Reclamation Plan (MRP) meets the requirements of R645-201-200.223, R645-201-200.224, or R645-201-200.225 because the Permittee adequately presents narrative describing the exploration area, timing of the project, or method used to protect biological or archeological resources from adverse impacts.

The Permittee plans to transport core or rotary drill rigs by helicopter and drill eleven 3” diameter holes: 2006-1 through 2006-11. The proposed drill holes are located within the Mill Fork Lease area on USFS surface and State of Utah subsurface. The legal description for this project is T16 S and R 6 E Sections 7, 11, 12, 13, and 15 (7.5 Minute Quadrangle USGS map is the Rilda quadrangle). The elevation of the project sites is approximately over 9400’. Drill hole staging sites are in Upper Joes Valley or lower end of Mill Fork Canyon. (Refer to 2005-raptor map in this 2006 plan).

The current plan shows that the project will start on July 15th and take no longer than 60 days to complete. The Permittee submitted a request to start earlier than July 15th because their mine plan shows that they will be approaching these sites prior to July. The USFS authorized the approval for beginning earlier than the July 15<sup>th</sup> date. Wildlife concerns associated with an earlier start up date have been addressed. DOGM will include a stipulation that the Permittee must update their plan to include all the conditions that the USFS, USFWS, and DOGM approved (phone 6/1/06: Diana Whittington, Tom Lloyd, Jerriann Ernstsens).

### **Archeology**

The Division or Federal lead agency will comply with Section 106 laws. The Permittee provided the archeology report with this plan (email 3/3/06; incoming). The Division will coordinate with the USFS to reduce SHPO consultation efforts. The USFS will conduct the SHPO consultation requirement and send the Division a copy of the correspondence for our records. The Division received a copy of the SHPO concurrence letter written to the USFS (6/1/06, Incoming File).

### **Biology**

#### Plants

The Permittee provides an adequate description of the existing vegetation community types in the Operations Standards section (230). The plan also includes topographic maps and aerial photos of the area. Previous reports for the area show that there are no TES plant species (MRP Millfork Vol. 12).

The Permittee expects minor surface disturbances from the drilling activities. The size of the work pads for the holes are 40' x 40'. Preparation will not include digging up or removing vegetation. There will be no soil disturbance. The Permittee will remove deadfall and may need to prune taller vegetation (1/25/06 communications: Jerriann Ernstsens and Chuck Semborski) from the sites in preparation for the drill-hole pads.

At the end of the project, the Permittee will remove all equipment, rake the vegetation, and spread the USFS requested seed mix. This seeding step and seed mix are required by the USFS.

#### Animals

The Permittee provides adequate description of the existing wildlife communities in the Operations Standards section (230).

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The plan states that the area is designated as critical winter range for elk, and high priority summer range for deer and elk. The Permittee will initiate the drill project in June, which is before deer and elk exclusionary wintering and calving periods (December 1 through April 15 and May 15 through July 5, respectively). DWR and the Permittee flew over the area for the raptor survey during the week of May 19<sup>th</sup> and did not observe deer or elk herds. The DWR (and USFS) does not consider that this project will have a significant impact to deer or elk populations for this area (phone 6/1/06: Leroy Mead, Tom Lloyd, Jerriann Ernstsens).

The Permittee conducted their annual raptor fly-over survey in May 2006 (week of May 19<sup>th</sup>). The results showed that nest #1210 and #80 were active, each with two chicks approximately 10 days old. Both of these nests are within the 0.5-mile buffer zone for golden eagles. The plan is to start drilling in June, which is before the exclusionary period ends for many raptors (February 1 through July 15). The conditions that the Permittee must follow in order to start drilling in June include the following:

- Assign the Joes Valley staging area as the primary staging area rather than the Millfork staging area, which is within the 0.5-mile buffer of an active nest.
- Provide clarification that the primary staging area is now Joes Valley and any other related information.
- Move the Millfork staging area farther west to avoid overlap with one of the nests.
- Provide an updated map showing the new location of the Millfork staging area.
- Monitor the active nest (#1210) that is near three proposed drill hole sites prior to any mining-related activity of the three drill sites.
- Provide the monitoring agreement in the plan. The final agreement among the agencies differs from the Permittee's plan emailed on 5/30/06 (Jerriann Ernstsens). The Permittee must use the 6/1/06 approved monitoring condition.
- Provide a report the appropriate contact at the USFS (Tom Lloyd), USFWS (Diana Whittington), and DOGM (Jerriann Ernstsens) of monitoring results for #1210 within 24 hours of the survey.
- Provide clarification that the Permittee will adhere to protection measures for raptors if any holes (1-11) are drilled after 2006, within 0.5-mile buffer zone, and within the exclusionary period. Protection measure will depend on the year, raptor survey results, and consultation with the three agencies.
- Replace the information discussing the goshawk habitat to reflect the most current USFS habitat/territory designation (email 6/1/06: Tom Lloyd). Remove the unrelated and unnecessary information considering the exceptional approval based on water availability, this information does not relate to the deficiency and confuses the point.
- Provide all maps with raptor nest locations as confidential information for both the hard and electronic copies.

These conditions will help reduce impacts to the local raptor population.

To comply with the Division's internal policy concerning confidential information, the Permittee must relocate, to a Confidential Binder or folder, the site-specific description of raptor nests provided on the 2006 Raptor Location map. The Permittee must provide nesting or other related (dens, middens, roosting sites) information in a separate folder, marked Confidential, for both the hard and electronic copies. All submittals need only include one copy of all confidential information.

The Mexican spotted owl exclusionary period is March 1 through August 31. Previous reports show that the elevation for the 2006 project sites are above this species preferred nesting habitat of below 8,000' (MRP Millfork Vol. 12).

The drill-hole operations will require 1.35 acre-feet of water (p. 12 of this plan). The Permittee will access water from local drainages.

**Findings:**

The Mine and Reclamation Plan (MRP) meets the requirements of R645-201-200.223, R645-201-200.224, or R645-201-200.225 because the Permittee adequately presents narrative describing the exploration area, timing of the project, or method used to protect biological or archeological resources from adverse impacts.

The USFS authorized the approval for beginning earlier than the July 15<sup>th</sup> date. Wildlife concerns associated with an earlier start up date have been addressed. DOGM will include a stipulation that the Permittee must update their plan to include all the conditions that the USFS, USFWS, and DOGM approved (phone 6/1/06: Diana Whittington, Tom Lloyd, Jerriann Ernstsen). The conditions that the Permittee must follow in order to start drilling in June include the following:

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## **RECLAMATION STANDARDS**

Regulatory Reference: 30 CFR 772.13; R645-202-200.

### **Analysis:**

### **Findings:**

This 2006 helicopter supported drilling project will not substantially disturb the drill-hole site locations. The 202-200 regulations, therefore, do not apply.

*Substantially disturb is defined as: significantly impact land or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes; by placement of excavated earth or waste material on the natural land surface or by other such activities; or to remove more than 250 tons of coal.*

## **RECOMMENDATIONS:**

Approve the amendment.