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From: Daron Haddock
To: Jim Smith; OGMCOAL
Date: 6/25/2009 7:44 AM
Subject: Fwd: Energy West 2009 Drilling NOI Forest Service Decision Document
Place: OGMCOAL
Attachments: USFS Decision Memo 062209.doc

>>> "Fleck, Ken" <Kenneth.Fleck@PacifiCorp.com> 6/25/2009 7:34 AM >>>
Gentlemen,

I've attached to this e-mail a scanned copy of the U.S.D.A. Forest Service decision memo authorizing the issuance of a Special Use permit for Energy West's 2009 drilling, signed on Monday. Tom Lloyd says that issuance of the Special Use Permit document itself should be within the next couple of days. I will make sure that you receive a copy of the Special Use Permit document as soon as I possibly can.

Our target start-up date is July 6.

Thanks,

Ken Fleck
Geology and Environmental Affairs Manager
Energy West Mining Company
P.O. Box 310
Huntington, Utah 84528

435-687-4712



United States
Department of
Agriculture

Forest
Service

Manti-La Sal
National Forest

Ferron/Price Ranger District
Ferron Work Center
115 West Canyon Road
P.O. Box 310
Ferron, UT 84523
Phone # (435) 384-2372
Fax # (435) 384-3296

File Code: 1950/2820-4

Date: June 23, 2009

Mr. Ken Fleck
Manager
Energy West Mining Company
P.O. Box 310
15 North, Main Street
Huntington, UT 84528

Dear Mr. Fleck,

Attached is a copy of the my Decision dated June 23, 2009 authorizing issuance of a Special Use Permit to conduct coal exploration on Utah State Coal Lease ML-48258.

The decision is subject to appeal pursuant to 36 CFR 251.82. Notice of appeal must be postmarked or received by the Appeal Reviewing Officer within 45 days of the date of this decision. A notice of appeal, including the reasons for appeal, must be filed with the Regional Forester, Intermountain Region, Federal Building, 324, 25th Street, Ogden, Utah 84401. A copy of the notices must be filed simultaneously with the Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501. The appeals must meet the content requirements of 36 CFR 251.90.

Sincerely,

MESIA NYMAN
District Ranger



Decision Memo

**PacifiCorp-Energy West Mining Company
Upper Joes Valley/Crandall Canyon 2009
Helicopter Assisted Drilling Program
Utah State Coal Lease ML-48258**

USDA Forest Service, Intermountain Region
Manti-La Sal National Forest
Ferron-Price Ranger District
Emery County, Utah

I. INTRODUCTION

The Forest Service has evaluated the Energy West Mining/PacifiCorp Notice of Intent proposing to drill 6 helicopter-assisted coal exploration holes for the purpose of further defining reserves on Utah State Coal Lease ML-48258. The project would be on surface lands administered by the USDA Forest Service, Manti-La Sal National Forest (USFS). SITLA, the coal lease owner, and PacifiCorp the lease holder, has an outstanding mineral right to occupy USFS administered lands consistent with its lease rights. The general location of the proposed drilling is in the Upper Joes Valley area about 14 miles northwest of Huntington, Utah, in Sections 11 and 1, T16S, R7E, SLB&M.

The proposed project would consist of drilling 6 holes during the summer season of 2009 (Attachment 1, Map). The project would be done using helicopter assistance resulting in very little temporary surface use (0.03 acres/site = potential 0.18 acres). Helicopter staging areas would be in Mill Fork Canyon (along Forest Development Road #245) and Upper Joes Valley, near the Indian Creek Camp Ground on the east side of Forest Development Road #040. The purpose of the drilling is to provide Energy West information necessary to evaluate the coal seam thickness, coal quality, and further characterize the geology of the area's coal reserves for mine planning and development.

Helicopter assisted drilling has proven to be very low impact on the environment. There is very little ground disturbance and full reclamation occurs within a year as shown in Figures 1, 2, and 3. Drilling fluids are fresh water based and contained on-site. Drilling fluids are usually lost in the formations during drilling and soils are not contaminated. Helicopter flight management minimizes impacts to wildlife: Flights adhere to recommended buffer zones around nesting raptors, and flights maintaining adequate altitude over deer and elk.

The decision to be made is whether or not to issue a Special-Use Permit authorizing surface occupancy of NFS lands and if so; what conditions are necessary to minimize the effects to non-coal resources in the area.



Figure 1 – Typical location before drilling

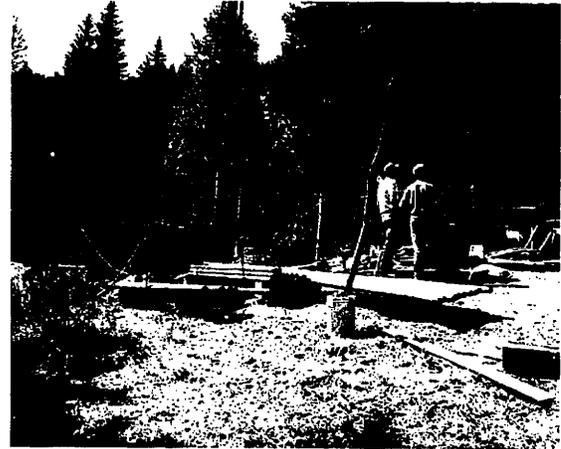


Figure 2 – Typical location during drilling



Fig. 3 -- Typical location one year after drilling/reclamation

II. DECISION

I have decided to authorize PacifiCorp occupancy of National Forest System lands to conduct the proposed 6 hole helicopter assisted coal drilling project on State Coal Lease ML-48258 by issuing a Special-Use Permit with Conditions needed to protect non-coal surface resources (Attachment 2).

III. DECISION RATIONALE

This decision was made after careful consideration of the proposal, public involvement, and the entirety of the supporting record. No one fact or single piece of information led to the decision. Rather, a combination of factors contributed to it. The key considerations are discussed in the following sub-parts.

Attainment of Agency Goals:

6/24/2009

Energy West 2009 Decision Memo

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The general purpose and need for this project is to accomplish the following goal of the Forest Plan: "Provide appropriate opportunities for and manage activities related to locating, leasing, development, and production of mineral and energy resources," (Forest Plan, p. III-4). Another related goal of the Forest Plan is: "Manage geologic resources, common variety minerals, ground water, and underground spaces (surficial deposits, bedrocks, structures, and processes) to meet resource needs and minimize adverse effects." The Forest Plan, as amended, and Final Environmental Impact Statement are programmatic documents that considered coal development activities in conjunction with other activities on the Manti-La Sal National Forest. The proposal is consistent with all Forest Plan requirements. The total temporary disturbance (occupation) would be less than 1 acre. There will be negligible impacts to surface resources, and surface uses would remain essentially the same.

The effects of coal leasing, reasonably foreseeable coal development activities, and other past, present, and reasonably foreseeable actions were disclosed in the Mill Fork Federal Coal Lease Tract UTU-71307, Environmental Assessment, Lease-by-Application No. 11, 1997. The proposed exploration project is consistent with that analysis.

Helicopter assisted drilling, to characterize coal reserves for the mining operation of Deer Creek Mine is not connected to any other action except for mine operation, which has already been analyzed through the lease analysis and decision. No other actions, including past or future helicopter drilling, are dependent upon this project. Helicopter drilling impacts are not cumulative because the impacts are so short-term and temporary that they do not remain on-the-ground. Monitoring shows that impacts last generally less than one year. Impacted vegetation recovers the next growing season if not the same growing season.

The decision wholly meets the project's purpose and need. SITLA and the permittee (PacifiCorp/Energy West) have an outstanding right to conduct reasonable exploration drilling within the State coal lease.

Absence of Extraordinary Circumstances:

Existing resource conditions and potential extraordinary circumstances have been considered in making the decisions:

Threatened, endangered and sensitive species or their critical habitat- A Biological Assessment and Biological Evaluation (BA/BE) for this project was prepared and signed on April 1, 2009. There is no designated critical habitat for any federally listed species in or near the project area. There are fifteen federally listed species; Barneby Reed-mustard, Black-footed Ferret, Bonytail, Colorado Pikeminnow, Humpback Chub, Jones Cycladenia, Last Chance Townsendia, Maguire Daisy, Mexican Spotted Owl, Razorback Sucker, San Rafael Cactus, Southwestern Willow Flycatcher, Winkler Cactus, Wright Fishhook Cactus, and Yellow-billed Cuckoo. The Forest Service sensitive species that could occur in the project area are the bald eagle, spotted bat, Townsend's big-eared bat, northern goshawk, peregrine falcon, flammulated owl and three-toed woodpecker. The analysis showed that the implementation of this project would not impact the viability of these species. It is my opinion that no extraordinary circumstances exist for biological resources that would preclude the use of a categorical exclusion for the Energy West Coal Exploration Drilling (Mill Fork Coal Lease ML-48258) Project FY 2009.

There is suitable Northern goshawk (Manti-La Sal Management Indicator Species) nesting and foraging habitat in the proposed project area. Active goshawk nests will be protected with a 0.5 mile operational and flight buffer.

There are golden eagle nest sites near portions of the proposed flight lines. Nests in the area were surveyed and found to be inactive in a survey conducted in May 2009.

Floodplains, wetlands, or municipal watersheds- Very little surface disturbance will occur on each drill site. Floodplains or wetlands are not present in the project area and there will not be an effect to any floodplains or wetland further down in the drainage.

Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas- There are no wilderness, wilderness study areas, or National Recreation Areas in or around the project area.

Inventoried roadless area- The project area is within the East Mountain Inventoried Roadless Area. No new roads or road reconstruction are proposed. Roadless characteristics were determined to have no effect include:

- Soil, water and air resources
- Sources of public drinking water
- Diversity of plant and animal communities
- Habitat for TES and species dependent on large undisturbed areas of land
- Primitive and semi-primitive classes of recreation
- Reference landscapes for research study or interpretation
- Landscape character and integrity
- Traditional cultural properties and sacred sites
- Natural integrity
- Apparent naturalness
- Remoteness
- Solitude
- Opportunities for primitive recreation
- Special features
- Manageability
- Other locally unique characteristics

Research Natural Area- The project area is not located within or near any Research Natural Areas (RNAs).

Native American religious or cultural sites, archeological sites, or historic properties or areas- In accordance with Section 106 of the National Historic Preservation Act, an archaeological evaluation of the proposed project area has been conducted by Scott Billat of Earth Touch Archeological Consultants. Based on the findings of the cultural resource evaluation, consistent with 36 CFR 800.3 and 800.16(y), it was determined by the authorized officer that the proposed project will have no affect on cultural resources. Tribal consultation consisted of sending scoping letters to the Hopi, Ute Mountain Ute, White Mesa Ute, Paiute, Northern Ute, and Navajo tribes. The Navaho Nation and the Hopi Tribe responded and had no concerns with the proposed project. Other tribes contacted did not respond.

IV. PUBLIC INVOLVEMENT

Public scoping consisted of sending 18 letters (dated January 9, 2009) to interested parties by mail.

Comments received were from the following:

- Ray Petersen, Emery County Public Lands Administrator, Emery County, Utah
- Charlie Johnson, Utah Environmental Congress, Salt Lake City, UT 84115

V. FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

To the best of my knowledge, the decision complies with all applicable laws and regulations. The association of the decision to some pertinent legal requirements is summarized below:

National Forest Management Act of 1976: The Forest Plan was approved November 5, 1986, as required by this Act. This long-range land and resource management plan provides guidance for all resource management activities in the Forest. The National Forest Management Act requires all projects and activities to be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this project. The decision is consistent with the Forest Plan.

Federal Land Planning and Management Act of 1976: The decision is consistent with FLPMA and Forest Service Regulations contained in 36 CFR 250. Operations will not involve disposal of waste materials or unacceptable risks to public safety or forest resources.

National Historic Preservation Act: The proposal would not result in any impacts to cultural or historic resources (Project file).

Endangered Species Act: The Biological Assessment/Biological Evaluation was completed and signed for the proposed project (Project file). Formal Consultation with U.S. Fish and Wildlife Service (FWS) was initiated on April 9, 2009 due to the determination the proposed project "May effect, Likely to Adversely Affect" the four federally endangered fish of the Upper Colorado River Basin. USFWS responded back on June 15, 2009 stating that FWS concurs that the proposed project "May Effect, Likely to Adversely Affect" the four federally endangered fish of the Upper Colorado River Basin. However, the Upper Colorado River Basin Endangered Fish Species Recovery Program adequately addresses effects to the species (Project file).

It was also determined there will be no impact on sensitive plant, fish, and amphibian species.

National Environmental Policy Act: The entirety of documentation for this project supports that the project analysis complies with this Act.

Environmental Justice: Based on experience with similar projects on the Ferron-Price Ranger District, it is believed that this project would not have any disparate impacts on individual groups of peoples or communities. Implementation of this project will produce no adverse effects on minorities, low-income individuals, Native Americans or women. No civil liberties will be affected.

Transportation (Roads Analysis FSM 7712)

A separate project-specific roads analysis was not needed for the following reasons:

- No new roads are needed for this project. Drill sites will be accessed by helicopter.
- Forest Service classified roads will be used for access to helicopter staging areas, however, no road improvements will be necessary.
- Classified roads serving the project area were assessed in the Forest Scale Roads Analysis, which calls for retention of the roads proposed for use to support this project.

VI. CONSIDERATION OF BEST SCIENCE

My conclusion is based on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk.

VII. IMPLEMENTATION DATE AND APPEAL OPPORTUNITY

It is my determination that this decision may be categorically excluded from preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under Forest Service Handbook 1909.15, Chapter 30, Section 31.2(3) "Approval, modification, or continuation of minor special use of National Forest System lands that require less than five contiguous acres of land." This category was determined appropriate because impacts to the area affected by this decision are short-term with little ground disturbance.

My decision will be implemented by issuance of a Special Use Permit with terms and conditions needed to protect non-mineral resources (Attachment 2) authorizing surface occupancy of National Forest System lands to do coal exploration Utah State Coal Lease ML-48258. Implementation of the decision may occur immediately upon my signature of this document and issuance of the required permits.

This decision is not subject to administrative appeal pursuant to 36 CFR 215.11. This decision is subject to appeal pursuant to 36 CFR 251.82. Notice of appeal must be postmarked or received by the Appeal Reviewing Officer within 45 days of the date of this decision. A notice of appeal, including the reasons for appeal, must be filed with the Regional Forester, Intermountain Region, Federal Building, 324 25th Street, Ogden, Utah 84401. A copy of the notices must be filed simultaneously with the Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501. Appeals must meet the content requirements of 36 CFR 251.90.

VIII. CONTACT PERSON

For additional information concerning the Forest Service decision, please contact Tom Lloyd at the USDA Forest Service, Manti-La Sal National Forest (address: 115 West Canyon Road, P.O. Box 310, Ferron, Utah 84523; telephone: (435-636-3596).

IX. SIGNATURE AND DATE

/s/Mesia Nyman

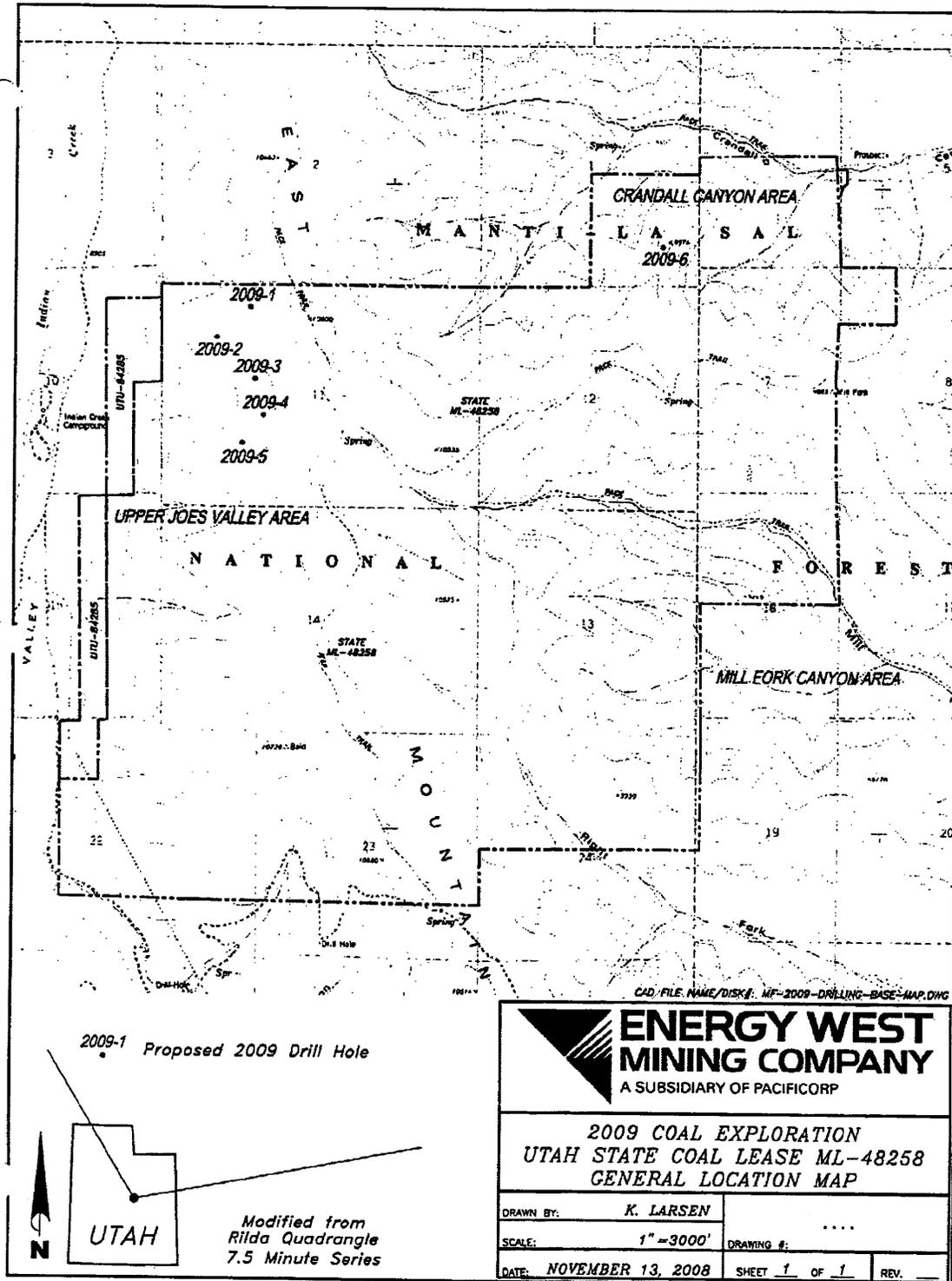
6/23/09

MESIA NYMAN
District Ranger

Date

Attachments: (#1) Map (#2) Conditions of Approval

Attachment 1



Conditions of Approval

**PacifiCorp-Energy West Mining Company
Upper Joes Valley/Crandall Canyon 2009
Helicopter Assisted Drilling Program
Utah State Coal Lease ML-48258**

1. A pre-work meeting including the responsible company representative(s), contractors, and the Forest Service must be conducted at the project location prior to commencement of operations. Site-specific Forest Service requirements will be discussed at this time.
2. A Road Use Permit must be obtained from the Forest Service before equipment is transported onto National Forest System lands.
3. Operations including reclamation must be supervised by a responsible representative of the permittee/licensee who is aware of the terms and conditions of the projects permits/licenses. A copy of the appropriate permits/licenses must be available for review at the project site and presented upon demand to any Forest Service Official.
4. The Forest shall be notified 48 hours in advance that heavy equipment will be moved onto National Forest System lands and that surface disturbing activities will commence.
5. The Forest Service must be notified of any proposed alterations to the plan of operations and alterations shall be approved prior to commencement.
6. Fire suppression equipment must be available to all personnel working at the project site. Equipment must include at least one hand tool per crew member consisting of shovels and pulaskis and one properly rated fire extinguisher per vehicle and/or internal combustion engine.
7. All gasoline, diesel, and steam-powered equipment must be equipped with effective spark arrestors or mufflers. Spark arresters must meet Forest Service specifications discussed in the "General Purpose and Locomotive (GP/L) Spark Arrester Guide, Volume 1, April, 1988"; and "Multi-position Small Engine (MSE) Spark Arrester Guide, April, 1989". In addition, all electrical equipment must be properly insulated to prevent sparks.
8. The permittee/licensee will be held responsible for damage and suppression costs for fires started as a result of operations. Fires must be reported to the Moab Fire Center at 435-259-1850 soon as possible.
9. Operations are subject to Forest Service fire restrictions and the Forest Service reserves the right to suspend operations during periods of high fire potential.
10. Water needed in support of operations must be properly and legally obtained in accordance with Utah State water laws.
11. Unauthorized off-road vehicular travel is prohibited.

12. Section corners or other survey markers, including claim corners, in the project area must be located and flagged for preservation prior to commencement of surface disturbing activities. The removal, displacement, or disturbance of markers must be approved by the proper authority. Replacement will be done by the proper authority at the expense of the permittee/licensee.
13. If cultural or paleontological resources are discovered during operations, all operations which may result in disturbance to the resources must cease and the Forest Service must be notified of the discovery.
14. The permittee/licensee will be held responsible for all damage to fences, cattleguards, resource improvements, roads, and other structures on National Forest System lands which result from their operations. The Forest Service must be notified of damages as soon as possible.
15. Operations must be coordinated with grazing permittees to prevent conflicts.
16. Harrassment of wildlife and livestock is prohibited. Areas of elk calving (nurseries) shall be avoided with adjustments in flight lines.
17. Significant water encountered during drilling must be reported to the Forest Service, including the depth and formation at which it was encountered, and an estimate of the flow.
18. All drill holes must be plugged in accordance with Federal and State regulations.
19. Drill rigs and heavy equipment (not including water trucks) must not be transported over National Forest System roads during the opening weekend of the general elk hunt nor during the opening weekend of the general deer hunt and during holiday weekends (Friday through Monday for Federal Holiday weekends and Friday through Sunday for the opening weekends of the hunts).
20. Seeding will be done with the following certified seed mix:

<u>Basic Mix:</u>	<u>lbs./acre</u>
Mountain Brone (Bromus carinatus)	3.0
Slender wheatgrass (Elymus trachycaulus)	3.0
Sandbergs Blue Grass	1.0
Columbia Needle Grass	1.0
Blue Wild Rye (Elymus Glenus)	1.0
Pacific aster (Aster chilensis)	0.2
<u>Total</u>	9.2

The certified weed-free seed mixture must be 99 percent pure live seed containing a maximum of 1% weeds none of which are noxious.

21. The operator will be held responsible for control of noxious weed infestations found to be a result of this drilling operation. Vehicles and drilling equipment are to be cleaned prior to entering National Forest System lands.
22. No activities or helicopter flights shall be conducted within ½ mile goshawk buffer and timing restriction must be adhered to (Attachment 1).
23. The licensee/permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in the license/permit/lease. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of the Interior, (2) uses of all existing improvements, such as Forest Service Roads, within and outside the area licensed, permitted or leased by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by a permit/operating plan approved by the Secretary of the Interior.