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September 8, 2006

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Refer to Expandable 09052006
file in C0150095.0006 INCOMING
for additional information

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9/15/06

Wayne Headburg,

RECEIVED

SEP 13 2006

Re: NEPA Documents, Bear Canyon Mine, C/015/025

DIV. OF OIL, GAS & MINING

Enclosed are the most relevant NEPA documents. This represents approximately one fourth of the documents on file. I have summarized the letters of consent below.

On March 31, 1987 the Forest Service did an EA for Lease U-38727. The EA states no mining is planned "There would be no effects to the environment unless coal is produced from the lease and/or surface disturbance operations are conducted."

In July of 2001 the Forest Service consented to the addition of Lease U-38727 to the Bear Canyon MRP and consented to production of coal from this lease, and didn't require new NEPA documents but determined the March 31, 1987 documents were adequate.

On October 7, 1992 the Forest Service consented to the addition of Leases U-61048 and U-61049 to the Intermountain Power Agency LMU (Logical Mining Unit) and stated that the existing NEPA documents were adequate.

On July 8, 1987 the Forest Service did an EA for Lease U-46484. This EA addressed mining on the lease and did not specify a difference between longwall mining and room and pillar mining. We assume it was for room and pillar mining since the current approved LMU and R2P2 showed that type of mining.

On March 31, 1989 the Forest Service did an EA for Lease U-61049 which was severed from Lease SL-069985. This EA discusses the alternative of accessing the coal through the King Mines, through the old Mohrland Mine, and through new Mohrland portals. It further states. "If mining continues under a new MRP ... the environmental consequences for all three alternatives would be the same..."

On September 29, 1997 the Forest Service sent a letter of consent to add leases U-020668, U-38727, U-46484, U-61048, and U-61049 plus additional private lands to the Bear Canyon LMU. The LMU and the R2P2 that the Forest Service reviewed at that time showed full extraction room and pillar mining operations in all minable coal seams in all leases. The letter of consent stated "...the referenced leases may be categorically excluded from an EA or EIS under FSH 1909.15, Chapter 31.1b, Category 2d;"

On July 16, 2003 the Forest Service consented to the readjustment of Lease U-61048 and determined that the current NEPA documents were adequate.

On July 31, 2001 the Forest Service sent a letter of consent to the modification the Federal Coal Leases U-38727 and U-61049. The approved LMU and R2P2 at this time showed full extraction mining using the room and pillar method. The consent letter states "This decision does not approve mining that would cause subsidence or surface disturbance." It could be debated whether or not this applies to the entire leases or just the modification. Either way it directly conflicts with statements in the lease.

I am not sure how familiar you are with the NEPA when consulting with the EPA they explained the preliminary NEPA process as follows.

1. A proposed action is received.
2. A search for existing NEPA documents is done
3. A review of existing documents is performed to determine if there is a change in the action proposed and the one evaluated in the existing NEPA documents.
4. If there is a change a preliminary assessment is done to determine if the change creates a significant impact that was not evaluated in the existing NEPA documents.
5. If there is no significant impacts that were not analyzed in the existing NEPA documents then the action is categorically excluded. If it is unclear as to what the impacts are from a preliminary review a scoping letter is published and a EA is done. If there are significant impacts not covered in the existing NEPA documents an EIS is started.

In a telephone conversation with the District Forest Service office on July 31, 2006 they agreed that this is the preliminary NEPA process.

The EPA has also issued the following statements in regards to NEPA. I have included the documents being quoted.

"The NEPA process consists of an evaluation of the environmental effects of a federal undertaking including its alternatives. There are three levels of analysis depending on whether or not an undertaking could significantly affect the environment. These three levels include: categorical exclusion determination; preparation of an environmental assessment/finding of no significant impact (EA/FONSI); and preparation of an environmental impact statement (EIS)."

"At the first level, an undertaking may be categorically excluded from a detailed environmental analysis if it meets certain criteria which a federal agency has previously determined as having no significant environmental impact. A number of agencies have developed lists of actions which are normally categorically excluded from environmental evaluation under their NEPA regulations."

"At the second level of analysis, a federal agency prepares a written environmental assessment (EA) to determine whether or not a federal undertaking would significantly affect the environment. If the answer is no, the agency issues a finding of no significant impact (FONSI). The FONSI may address measures which an agency will take to reduce (mitigate) potentially significant impacts."

"If the EA determines that the environmental consequences of a proposed federal undertaking may be significant, an EIS is prepared. An EIS is a more detailed evaluation of the proposed action and alternatives. The

public, other federal agencies and outside parties may provide input into the preparation of an EIS and then comment on the draft EIS when it is completed.”

I have also included regulations regarding NEPA, specifically ones relating to timing. We do not have an issue with NEPA documents being done, but with the timing of the process.

We meet with the Forest Service again on September 7 and discussed some of the things that Karl was upset about in the previous meeting at the PFO. We feel like we have worked through the issues and that the Forest Service will work with us and not fight us through the process. We feel that there is a good possibility of getting a consent letter from them allowing long-wall mining in an acceptable time. At this time we do not feel that there is a need to proceed with a permit allowing development mining only. If in the future the feelings between the Forest Service and ourselves or other agencies deteriorates we may ask for that course of action.

If you have any questions, please call me at (435) 687-2450.

Thank You,

A handwritten signature in black ink, appearing to read "Mark Reynolds". The signature is fluid and cursive, with the first name "Mark" being more prominent than the last name "Reynolds".

Mark Reynolds, PE
Environmental Coordinate