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INCOMING CO150025

From: Mark Reynolds <mreynolds@etv.net>
To: Dale Harber <dharber@fs.fed.us>
Date: 10/24/2006 7:46:10 AM
Subject: Re: response_draft_submittal4_10_19_06.doc

Dale,

I greatly appreciate the speed with which you were able to review the draft submittal. I realize that you and your staff are very busy, and that this has been compounded by Karl's illness. I hope Karl recovers soon. If there is any additional information you or your staff needs from me, let me know and I will provide it to you as quick as I can.

I have read your comments to my response. Attached is a document providing additional information answering your outstanding questions and concerns. I have marked the document as confidential because it discusses location and information regarding Golden Eagle nests.

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Dale Harber wrote:

> Mark:

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> Here are our comments to your responses. Please let me know if you have
> any questions.

>

> Dale

>

>

> (See attached file: response_draft_submittal4_10_19_06.doc)

CC: Karl M Boyer <kboyer@fs.fed.us>, <waynehedberg@utah.gov>,
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Comments on the Forest Service response to the preliminary submittal on #4 submittal of the Bear Canyon Mine Plan Modification.

1, 2, 4. Any additional information that the Forest Service requests pertaining to mining methods and areas will be provided within 24 hours of the request.

6. The location of escarpments within the permit area is shown on Plates 5-3 and 5-3A. The areas of anticipated escarpment failure are the escarpment areas that are within the subsidence impact area. On the official submittal, a different hatch will be used in these areas.

7. Hard copies of Attachments 2 and 3 will be delivered with the official submittal..

8. This is not just an opinion of C. W. Mining Company. The fact that longwall mining and room and pillar mining have the same impacts, except that longwall mining impacts are less drastic are considered common knowledge in the coal industry. All studies or documents discussing both longwall mining and room and pillar either state this or infer to it. Additionally it has been argued in court and the courts have ruled that the affects are the same. Some examples are:

Attachment 2 of Appendix 5C. Longwall mining is used by Malecki to determine impacts of room and pillar mining

Ball v. Island Creek Coal Co., 722 F. Supp. 1370 (W.D. Va. 1989) The court noted that insofar as longwall mining was different from underground mining techniques know at the time of severance, it was different only in the degree of damage, not the kind of damage, it causes to the surface.

Culp v. Consol Pennsylvania Coal Co., Supra, Judge Simmons found that "Longwalling is universally recongnized as preferable because it is safer, more economical and predictable."

In debating the federal Surface Coal Mining Conservation and Reclamation Act, Congressman Udall, one of the nation's most environmentally conscious congressman at the time, defended the longwall subsidence as superior to that which occurs, inevitably, when pillars collapse "after long and unpredictable periods of time." *** In fact the bill's sponsors consider longwall mining ecologically preferable. (123 Cong. Rec H 2273, July 10, 1974)

I feel that these examples prove the statement made in the draft response. I included these ones and not more only because I had these readily available and did not wish to spend time researching additional sources. If more are needed I will get them.

17. I have received the map and the sites will be added to the water monitoring map. The map also shows fence lines along with the water resources. I will add a commitment to

inspect the fences month during the grazing season. I will also add the map you sent me to the MRP as a figure for resources identified as protected by the Forest Service in accordance with lease stipulations.

19. The Castlegate Sandstone Escarpment is shown on Plate 5-3, and 5-3A. I will deliver copies of these to you if you request. They will be included in the official response and were included in the draft response.

25. The requested changes were made and will be included in the official submittal.

26. From the Utah Division of Wildlife Resources publication "Fauna of Southeastern Utah and Life Requisites Regarding Their Ecosystems"

The Great Plains Toad - These insectivorous, nongame toads inhabit cold desert, submontane, and montane zones. They are nocturnally active at air temperatures of 54-69°F. Breeding occurs during May-July rains in springs and temporary pools. Females probably produce just one clutch a year. Metamorphosis from egg to adult is rapid and can occur in as little as two weeks. These toads require loose soil that can be easily burrowed into for overwintering. Underground burrows are also utilized during dry periods.

Great Basin Spadefoot - These nongame toads prefer grassland areas of cold desert and submontane zones. They are insectivorous. Breeding begins during March-September rainfalls in clear, shallow, ephemeral or intermittent pools. Eggs are deposited on submerged debris when water temperatures are 55-68°F. Larvae hatch in 2-3 days, and metamorphosis is complete after about 17 days, depending on temperatures. Although this species can be found in irrigated cropland, reproduction success in these areas is unknown.

Woodhouses's Toad - These nongame toads inhabit cold desert and submontane zones. They are insectivorous and nocturnal. The water temperature for breeding, although unknown, is at least 59-64°F. Breeding occurs during rains of late spring and early summer. Shallow, still-water, perennial pools of varying turbidity and vegetative growth are used. Eggs incubate for 3-4 days. Metamorphosis occurs after 34-35 days. Woodhouse's subspecies (*B.w. woodhousii*) is found in southeastern Utah. These toads are very susceptible to pesticides.

27. The title from the DWR website is Utah Sensitive Species List, the same title we used. It is available at <http://dwrcdc.nr.utah.gov/ucdc/ViewReports/SSL101706.pdf> As state on page 3-28 and page 3-29 the information was current as of May 12, 2006. DWR released an updated list on October 17, 2006. This is most likely the reason our list is not complete. The updated October 17, 2006 information will be used instead of the May 12 information.

Figure 3-1 came from a shape file downloaded from <http://dwrcdc.nr.utah.gov/ucdc/downloadgis/disclaim.htm> the name was changed to

match the website and is now "Utah Threatened, Endangered, and Sensitive Species Occurrences"

32. The following reference is included on page 5C-10. (Lowrie, Raymond L., ed. 2002 "SME Mining Reference Handbook" pp. 256)

34. Detailed information about species and status has not been included in the MRP because the status changes yearly, and new nest may be found. Instead this information is submitted to the Division in our annual report. Based on the 2006 survey there are 7 nests in or near the area. They are summarized below.

Nest #	Species	Distance from escarpment failure area	2006 Status
901	Golden Eagle	100 feet	Not Surveyed
902	Golden Eagle	100 feet	Inactive
903	Golden Eagle	43 feet	Not Found
904	Golden Eagle	100 feet	Tended
907	Golden Eagle	0 feet (nest is inside affected area)	Not found
920	Golden Eagle	150 feet	Inactive
921	Golden Eagle	0 feet (nest is inside affected area)	Inactive

This information has been given to Utah DWR and U.S. Fish and Wildlife. They are currently reviewing the protection commitments.

37. In Appendix 3L the information about the peregrine falcon will be updated and the migratory birds on the Utah Partners in Flight list will be discussed. This will be included in the official submittal.

Additional Comments

When you state "it is necessary to have mine water discharge information to predict potential impacts to the Colorado River T&E fish species" I am not sure if you need quality data or quantity. The results of chemical analysis and flow data on both the Bear Canyon discharge and the Mohrland discharge can be obtained from DOGM's water database.

In regards to the impacts of mining below the potentiometric surface, it is discussed in Appendix 7J. On page 59 it states "as mining progresses northward, the mine workings may pass below the local pressure surface on the Spring Canyon Sandstone and upwelling of groundwater through the mine floor may occur." On page 61 it states "the fact that distinct pressure surfaces exist in each of the members of the Star Point Sandstone suggest that there is not significant hydraulic communication between the sandstone members..." On page 64 it states "the hydraulic gradient ... suggests that groundwater flow is primarily horizontal beneath the mine area..." It should also be noted as stated in the report that the Hiawaths seam lies directly above the Spring Canyon Sandstone as stated on page 59 "...the Spring Canyon Sandstone, which directly underlies the Hiawatha Seam...".

A detailed study of Appendix 7J would answer all of your questions. However, I realize the document is large, and you are very busy so in short, the answer is;

Yes, water will be encountered as we mine the Hiawatha seam.

No, it will not reduce the flows in Huntington Creek, Appendix 7J proves the water encountered will be hydrologically isolated from surface water systems (pages 98-105).

No, it will not have any affect on the potentiometric surface of the Star Point Sandstone, Appendix 7J proves the layers are hydrologically isolated, and additionally, any impacts that might have occurred would have already occurred during historic minning in the area (late 1800's and early 1900's).

Yes, there will be additional discharge. Any water encountered in the new workings will be discharged to Cedar Creek. The quantity is unknow since the water will come from isolated perched aquafiers, and it is impossible to predict their size. The quality is anticipated to be similar to the Bear Canyon discharge and the Mohrland discharge.

If you need me to provide additional quotes from Appendix 7J supporting these answers let me know, and I will provide them.