



State of Utah

**Department of
Natural Resources**

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**Division of
Oil, Gas & Mining**

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December 1, 2006

Carl Johnston, Federal Lands Coordinator
Office of Surface Mining
P. O. Box 46667
Denver, Colorado 80201-6667

Subject: Formal Consultation USFWS, Colorado Fish Recovery Program,
Underground Water Consumption Projections and T&E Species, Co-Op
Mining Company, Bear Canyon Mine, C/015/0025, Task ID #2680,
Outgoing File

Dear Mr. Johnston:

The Utah State Division of Oil, Gas and Mining is currently reviewing federal and private lease additions for Co-Op Mining Company's Bear Canyon Mine. The proposed expansion area includes the addition of 80 acres to lease U-024316, 2,196 acres to lease U-61049, 1400 acres to lease U 46484, 1,108.27 acres to lease 61048 and 2,740 acres of private property to the current permit area for a total acreage of 7,524,36 acres.

The expansion project is located in Emery County, Utah. The 7.5 Minute Quadrangle map that covers the permit area expansion is the Hiawatha Quadrangle, (Geological Survey of the U.S. Department of the Interior). The legal description for the project area is as follows: T16S R7E, SLBM, sections 1, 10 all except SW1/4SW1/4, sections 11 and 12 all, section 13 - E1/2, E1/2W1/2, and 14 - E1/2NW1/4, and T16S R8E, SLBM, section 6 - S1/2NW1/4, SW1/4, S1/2SE1/4, W1/2N1/2SE1/4, section 7 all, section 8 - W1/2W1/2E1/2, sections 16, 17 and 18 all, section 19 - N1/2W1/4, NE1/4, N1/2SE1/4, section 20 - N1/2, N1/2SW1/4, NE1/4SE1/4 and section 21 all except the SW1/4SW1/4.

The Division, acting through the authority of the Office of Surface Mining (OSM), has notified the United States Fish & Wildlife Service (USFWS) and Utah Division of Wildlife Resources (DWR) of their analysis and findings regarding threatened and endangered species and potential impacts to the Colorado Fish Recovery Program.

During subsequent and informal communications with the USFWS, the USFWS clarified the action points of the "Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin".

There are two separate actions: 1) formal consultation for water consumption values over 0 acre-feet and 2) mitigation for water consumption values over 100 acre-feet.

The Permittee has submitted proposed water usage calculations for the mining of the federal and fee leases associated with Task ID #2680, as pages 7-45 and 7-46, Chapter 7. Revised water usage calculations were received from the Permittee on November 21, 2006. The calculations are divided into the following usage/gain categories:

- a) Continuous mining production
- b) Longwall mining production (200-250 GPM)
- c) Surface dust suppression on roadways and surface stockpiles
- d) Evaporative loss from mine ventilation
- e) Mine inflow in the Bear Canyon #1 Mine

The calculations use realistic moisture percentages of 7 % for run-of-mine production coming from continuous mining methods and 12 % for run-of-mine longwall production. The Permittee's revised page 7-45A indicates that much of the water used for production and surface dust suppression will come from mine inflow to the Bear Canyon #1 Mine (30 GPM, average). A gain of 48.39 acre-feet is anticipated.

Total Water Usage/Loss is projected to be 117.11 acre-feet per year.

Total Water Gain is projected to be 48.39 acre-feet per year.

Water Loss Plus Gain = 117.11 acre-feet minus 48.39 acre-feet = **68.72 acre-feet per year of mine water consumption.**

Since the value of mine water consumption is above zero, formal consultation with the USFWS is required. The value, however, is less than 100-acre foot per year, which requires mitigation. The volume of water is expected to come from drainages that report to the Price River Drainage.

Additional information in the application includes a current list of Threatened and Endangered plant and wildlife species for the proposed lease addition areas as noted in paragraph two on page 3-28, 05/15/2006 of the submittal received on May 22, 2006, and includes a narrative about the existence of those species listed for the county, (Emery), where the lease additions are located. According to the DWR the only species of concern because of the relatively high elevation were the Townsend's Big Eared Bat and Flamulated Owl for which a study was completed. The results of the study revealed that neither of the species occurred in the area.

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Bald and Golden Eagles

According to the 2006 raptor survey and DWR data, bald eagles are not known to nest in the proposed lease area but may pass through the area during the winter months or periods of migration. The applicant has committed to conducting raptor surveys yearly during the life of the mine.

The application also includes a commitment to develop a mitigation plan by July 1, 2007 in consultation with the DOGM, USFWS, BLM, USFS and DWR to mitigate impacts to golden eagle nests and or other raptors from potential escarpment failure caused by subsidence. A map of the 2006 DWR raptor survey with the nest site locations is included in the application as plate 5-3A (confidential). Plate 5-3A also shows that nests 902, 903, 904, 907, 908, 920 and 921, are located within the projected limits of predicted subsidence. The mitigation plan will include site-specific analysis of these nest sites and possibly others for potential loss due to escarpment failure and or mined panel subsidence. The applicant has also proposed to avoid mining activities in those panels during nesting periods. If unavoidable, physical obstructions such as fencing will be placed over the nest sites to prevent nesting. Additional alternatives/options will be included in the mitigation plan.

The Division requests OSM's participation in the formal consultation process with the USFWS for the Colorado River endangered fish. The USFWS field office contact information is:

Henry Maddux, Field Supervisor
or Diana Whittington
U. S. Fish and Wildlife Service
2369 West Orton Circle
West Valley City, Utah 84119
(801) 975-3330

Thank you for your assistance in this regard, please provide our office with a copy of your consultation correspondence to the USFWS.

Sincerely,



D. Wayne Hedberg,
Permit Supervisor

an
cc: Dale Harber, USFS, Manti-La Sal
Ranvir Singh, OSM, Denver
Diana Whittington, USFWS
James Kohler, BLM, State Office
Pete Hess, PFO

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