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United States Department of Agriculture
Forest Service
Manti-La Sal National Forest

Supervisor's Office
599 West Price River Drive
Price, UT 84501
Phone # (435) 637-2817
Fax # (435) 637-4940

File Code: 2820-4
Date: November 30, 2004

Dear Participant:

The Manti-La Sal National Forest and the Bureau of Land Management (BLM) Utah State Office have decided to modify Federal Coal Lease UTU-68082. A copy of the Joint Decision Notice/Finding of No Significant Impact (DN/FONSI) for the Environmental Assessment (EA) for Modification of Federal Coal Lease UTU-68082 is enclosed for your information. The EA evaluates the environmental effects of modifying lease UTU-68082 by adding 120 acres of adjacent, unleased lands. Copies of the EA are available from the Manti-La Sal National Forest at the address on the letterhead or by contacting Karl Boyer (435-636-3551) or Dale Harber (435-636-3548).

The agencies selected Alternative 3, to incorporate 120 acres into Federal Coal Lease UTU-68082 as limited by the Supplemental Stipulation (Attachment 3 of the DN/FONSI), to mitigate effects to surface waters and riparian management units. This alternative would make additional Federal coal reserves available, provide an opportunity to extend the life of the Crandall Canyon Mine, and would be consistent with Forest Plan management goals and prescriptions for the area. Under this alternative, full extraction mining would not be authorized where the subsidence fractures are projected to reach the surface within riparian management units.

My decision is subject to administrative appeal under 36 CFR 215.7 or 36 CFR 251.82. The BLM decision is subject to appeal under 43 CFR 4.21. Appeal procedures are described in Section XI of the DN/FONSI.

Sincerely,

for ALICE B. CARLTON
Forest Supervisor

Enclosure

RECEIVED
DEC 03 2004
DIV. OF OIL, GAS & MINING

JOINT DECISION NOTICE/FINDING OF NO SIGNIFICANT IMPACT

MODIFICATION OF FEDERAL COAL LEASE UTU-68082
CRANDALL CANYON MINE
EMERY COUNTY, UTAH

USDA FOREST SERVICE, INTERMOUNTAIN REGION
MANTI-LA SAL NATIONAL FOREST
FERRON-PRICE RANGER DISTRICT

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE

BLM - UT - 950
2007 NOV 14 PM 3:36

Responsible Officials:

Alice B. Carlton
Forest Supervisor
Manti-La Sal National Forest
599 West Price River Drive
Price, Utah 84501
435-637-2817

Sally A. Wisely
Utah State Director
Bureau of Land Management
Utah State Office
324 South State Street
P.O. Box 45155
Salt Lake City, Utah 84145-0155

Cooperating Agency:

Office of Surface Mining
1999 Broadway, suite 3320
Denver, Colorado 80202

I. INTRODUCTION

Genwal Resources, Inc. (Genwal) submitted an application for modification of Federal Coal Lease UTU-68082 to the Bureau of Land Management (BLM) on February 27, 2004. The lease modification lies entirely within the boundaries of the Manti-La Sal National Forest. The proposed modification area, located immediately adjacent to the east side of UTU-68082, was originally excluded from the delineated tract due to low coal seam thickness.

The proposed lease modification involves adding 120 acres of National Forest System lands administered by the Manti-La Sal National Forest in Emery County, Utah described as follows (General Location Map, Attachment 1):

T. 15 S., R. 7 E., SLM, UT
Section 32, W1/2 NW1/4; NW1/4 SW1/4

The coal reserves in the proposed 120 acre lease modification would be approached from the south or west through existing underground mine workings in the Crandall Canyon Mine. No roads or portal facilities would be constructed for this project. The proposed lease modification area is an isolated area adjacent to the current lease. The proposed action would not lead to other future mining actions.

The Forest Service (FS) and the BLM, jointly prepared an Environmental Assessment (EA) that discusses the effects of the lease modification area. The Office of Surface Mining Reclamation and Enforcement (OSM) participated as a cooperating agency.

II. AUTHORITIES AND DECISIONS TO BE MADE

The lease modification is subject to the following authorities: Mineral Leasing Act of 1920, as amended; Federal Coal Leasing Amendments Act of 1976 (FCLAA); Multiple-Use Sustained Yield Act of 1960; National Forest Management Act of 1976 (NFMA); National Environmental Policy Act of 1969 (NEPA); and Federal Regulations 43 CFR 3400. Development of the lease modification, which is a separate permitting action, would be subject to these authorities and the following: Federal Land Policy and Management Act of 1976 (FLPMA); Surface Mining Control and Reclamation Act of 1977 (SMCRA); Federal Regulations 30 CFR 700 to End (SMCRA Regulations), and the State of Utah Coal Mining and Reclamation Regulatory Program.

The Utah State Director of BLM must decide whether or not to modify the lease and under what terms, conditions, and stipulations. The Bureau of Land Management is responsible for issuance and administration of coal leases under the Mineral Leasing Act of 1920, as amended and Federal Regulations 43 CFR 3400. The Forest Supervisor of the Manti-La Sal National Forest must decide whether or not to consent to the lease modification by BLM, and under what terms and conditions as needed to protect non-coal resources. The Federal Coal Leasing Amendments Act of 1975 that amended the Mineral Leasing Act of 1920 provides Forest Service consent authority.

The Forest Supervisor would also consent to any approval of the associated permit revision by Utah Division of Oil, Gas, and Mining, which would involve including this lease modification area in the permit area.

III. DECISION

After careful review of the proposal, public comments, and the analysis contained in the Environmental Assessment, and the project file, the responsible officials of the FS and BLM have decided on the following:

Alice B. Carlton, Forest Supervisor, Manti-La Sal National Forest has selected Alternative 3 and decided to consent to the lease modification subject to the Supplemental Coal Lease Stipulation (Attachment 3).

Sally A. Wisely, Utah State Director, BLM, has selected Alternative 3 and decided to approve the lease modification subject to terms and conditions of Federal Coal Lease UTU-68082 (Attachment 2) including Coal Lease Stipulations prescribed by the Forest Plan, as limited by the Supplemental Stipulation (Attachment 3), to mitigate effects to surface waters and riparian management units.

This alternative would make additional Federal coal reserves available, provide an opportunity to extend the life of the Crandall Canyon Mine, and would be consistent with Forest Plan management goals and prescriptions for the area. Under this alternative, full extraction mining would not be authorized where the fracture zone is projected to reach the surface.

IV. DECISION RATIONALE

These decisions provide for recovery of a coal resource needed for energy production and economic benefit. If leasing of these lands for coal mining were not allowed it would shorten the life of the Crandall Canyon Mine. This would impact existing jobs, revenue, and tax base in Emery County. By consenting to, and leasing these lands, the mine life will extend and continue to provide jobs and continued economic benefits to the Federal Government, State of Utah, and Emery County. Recoverable coal reserves are estimated to be 389,528 tons. The economic value of this coal based on a present spot price of $33 per ton is estimated at $12,854,408. The bonus and royalties are estimated to be $1,101,048. It is in the public interest to lease these lands to recover mineable coal that otherwise would never be mined. The Multiple Use Sustained Yield Act of 1960 provides for mineral activity on National Forest System Lands.

Alternative 1 (No Action) was not chosen because it would not have met the purpose and need, and would not have benefited the local economy by bypassing usable reserves.

Alternative 2 was not chosen because subsidence and cracking of the surface could cause

disruption of stream channels, ground water flow paths, and cause morphological changes where overburden is insufficient to protect surface water and riparian management units.

Alternative 3 was chosen because it offers environmental protection of National Forest System resources while providing for the maximum utilization of recoverable coal reserves and associated economic benefits.

V. ALTERNATIVES CONSIDERED

Based on analyses of issues raised during public scoping and by the interdisciplinary team, three action alternatives were developed. As a result, the no action alternative and the two action alternatives represent a reasonable range of alternatives. The alternatives are discussed below.

Alternative 1 – No Action

Alternative 1 addresses the need to provide a "No Action" alternative (40 CFR 1502.14). The Forest Service would not consent to, and the BLM would not approve the coal lease modification. Alternative 1 would not allow for mining within the modification area, and therefore not provide coal reserves for the mine.

Alternative 2 – Consent/Approval of the Lease Modification as Proposed

This alternative represents Genwal's proposal to modify Federal Coal Lease UTU-68082 to provide coal reserves for the Crandall Canyon Mine so that current production levels are maintained, and to recover Federally owned coal deposits that may otherwise be bypassed.

The 120 acre area would be added to Federal Coal Lease UTU-68082 for mining through the Crandall Canyon Mine. The modification would be subject to those lease terms and conditions (stipulations) contained in Federal Coal Lease UTU-68082. This list of stipulations is found in Appendix B of the Environmental Assessment and included as Attachment 2 of this Decision Notice.

Alternative 3 – Consent/Approval of the Proposed Lease Modification with Supplemental Forest Service Stipulations

This alternative is similar to Alternative 2 with application of additional mitigation measures designed to ensure surface water is not diverted into the mine workings and protect riparian management units.

VI. PUBLIC PARTICIPATION

Project scoping was conducted from May 4 to July 8, 2004. Comments were requested from Interdisciplinary Team (IDT) members, other Federal agencies, State, county and local agencies within Utah, Indian tribes, environmental groups, and interested individuals. Requests for

comments were published in the *Sun Advocate* and *Emery County Progress* newspapers on May 4 and June 8, 2004. The project has been listed in the Forest Service Quarterly Schedule of Proposed Actions. Letters requesting comments were sent to 77 interested parties. Four outside responses were received. From these outside responses and the internal scoping, the IDT identified potential issues.

The following is a summary of the outside responses that were received:

1) Utah Environmental Congress (UEC) requested that a cumulative effects analysis be completed for Management Indicator Species (MIS), wolverines, and Threatened, Endangered, and Protected Species (TEPS) on the Forest, and for the watersheds originating on the Wasatch Plateau. They also requested that the analysis address potential disruption to suitable habitat for migratory birds.

2) The Hopi Tribe requested a copy of the Cultural Resource Survey Report of the project to assist them in determining whether the area of potential effect contained any cultural resources significant to the Hopi Tribe.

3) The U.S. Fish and Wildlife Service was primarily concerned with the loss of perennial surface water and the disruption of springs and seeps due to mining subsidence, and the effects that the loss of water would have on wildlife habitat.

4) The Navajo Nation stated that they did not have any immediate concerns with the project and that the project area would not impact any Navajo Traditional Cultural Properties.

VII. FINDING OF NO SIGNIFICANT IMPACT

The need for an EIS is, in part, based on the potential for significant impacts as revealed by an analysis of impacts disclosed in an Environmental Assessment (EA). If significant impacts are not disclosed in the EA, then the EA is sufficient documentation upon which to base a finding of no significant impact and decision. Based on the following discussion and the direct, indirect, and cumulative effects disclosed in the EA, a finding regarding "significance" was made. Implementation of Alternative 3 was determined not to be a major Federal action that would significantly affect the quality of the human environment; therefore, an Environmental Impact Statement is not needed. This determination was made based on the following considerations:

Significance, as used in NEPA, defines and requires consideration of both context and intensity. Context means the significance of the action must be analyzed in several contexts such as the affected region, interests, and locality. Intensity refers to the severity of the impacts disclosed in the analysis.

Context:

Coal mining and related activities have been intensive and common on the Wasatch Plateau since

the late 1800's; county and city governments, and local residents are accustomed to these activities and their environmental, social, and economic effects. The potential environmental effects to affected surface resources are local in scope, that is, the effects are limited to the Huntington drainage. Social and economic effects are also local in scope, primarily involving Carbon, Emery, and Sanpete counties. Some indirect economic effects may be distributed elsewhere as a function of sale and transport of the coal, or generated power.

Individual coal leases have ranged in size from 40 to 9,905 acres. This coal lease modification, as delineated is 120 acres, making it a small tract. Additionally, this lease modification would not involve any new or unusual developments; it merely provides additional reserves for an existing mine, extending its life.

This decision is local in effect; all underground, no new surface disturbance, no subsidence in areas with insufficient overburden, short-term compared to the 100 plus year history of contemporary human activities in the area, and will not negatively affect city and county governments. Therefore, in context, this decision is not significant.

Intensity:

Intensity is evaluated by comparing and contrasting the following ten criteria (**in bold**) from 40 CFR 1508.27 with the issues and effects disclosed in the EA and project file.

1. "Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial".

The action will create a beneficial impact by extending the production of coal from the Crandall Canyon Mine that provides jobs and economic health to local communities. Under the selected alternative, there will be no significant impacts to non-mineral resources. Neither the beneficial or negative impacts are extraordinary. The impacts and benefits are typical and reasonable for underground coal mining activity on the Wasatch Plateau.

2. "The degree to which the proposed action affects public health or safety".

Under the selected alternative, there would be negligible risk of effects to public health and safety. Some rocks along the Castlegate Sandstone escarpment could be dislodged by subsidence, but safety risks would be negligible due to the remoteness of the canyon.

3. "Unique characteristics of the geographic area such as proximity to historical or cultural resources, park lands, or prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas".

No significant historical or cultural resources will be affected. The entire Forest, including the lease modification area, does not contain prime farmland, rangeland and forestlands (Forest Plan page II-57). Nor does the site contain any areas eligible or designated wild or scenic rivers, or ecologically critical areas. Several springs occur within the modification area.

4. "The degree to which the effects on the quality of the human environment are likely to be highly controversial".

Information received during scoping indicated concern for the impacts to water resources due to mining, most notably for the effects to the surface water and ground water supporting the springs and seeps in Shingle Canyon drainage. As discussed in Sections 4.2.1 and 4.2.2 of the EA, impacts to water resources in the lease modification area will be mitigated by application of the FS Supplemental Stipulation preventing full extraction mining in areas with insufficient overburden. There were no other controversies identified among resource professionals addressing the anticipated direct, indirect, or cumulative effects, or the effectiveness of the proposed mitigation measures designed to address the resource issues.

5. "The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks".

Coal mining has been a common and important element of the local economy and culture since the late 1800s. The impacts of underground coal mining on the National Forest have been observed and monitored for many years, and the effects and risks are well understood. Enhanced understanding of the local ecosystems and selection of the alternative to maximize and protect the environment ensures that the human environment will not be effected by unique or unknown risks.

6. "The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration".

The Forest Plan designated the area available for further consideration for coal leasing, and made findings relative to unsuitability criteria. Leasing of specific tracts is authorized on a case-by-case basis, and environmental analyses are completed based on site-specific information. Coal leasing has been conducted in this area since 1920; therefore leasing this tract is not precedent setting. This action will not influence future considerations of coal leasing.

7. "Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts".

The EA addressed the cumulative effects of the existing mining operation, other resource activities proposed in the vicinity of the project area, and mining of the lease modification area under each alternative in Chapter 4. The discussions of impacts in Chapter 4 consider all activities. The expected effects are consistent within the limits analyzed in the Forest Plan FEIS. Under the selected alternative, there will be minimal impacts on resources that will not lead to cumulatively significant impacts.

8. "The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic

resources".

No known objects on or adjacent to the lease tract are listed in or are eligible for the National Register of Historic Places. No significant heritage resources will be affected by the action. A Forest Service coal lease stipulation provides a measure to protect heritage resources in case they are unexpectedly encountered.

9. "The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973".

The Biological Evaluation/Biological Assessment completed for this project has a no effect / no impact determination.

A survey was performed for the spotted bat and Townsend's big-eared bat (USDA-FS Sensitive Species). Suitable roosting and hibernating habitat does not exist in the lease modification area for the Townsend's big-eared bat. Suitable habitat exists in the lease modification area for the spotted bat.

Observations made during the 1997 surveys on the National Forest indicated that Spotted bats were common enough throughout the general area (Crandall Canyon, Huntington Canyon) that current mining practices are not believed to pose a serious threat to the sustainability of viable populations of the spotted bat.

10. "Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment".

The analysis did not identify any adverse effects that threaten a violation of Federal or State laws designed to protect the environment.

VIII. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

Coal is not a renewable resource. Mining will be an irreversible commitment of the coal itself and other energy resources used in the mining process. Approximately 390,000 tons of recoverable coal would be left in the ground if the lease modification were not approved. Under the current economic environment and mining technologies, benefits from these reserves would be irretrievably lost by excluding the lease modification area from mining. Once the mine is shut down and reclaimed, it would not be economically feasible to re-open the mine at some future date to obtain coal from the lease modification area.

Changes in elevation due to subsidence would be irreversible.

IX. FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This analysis tiers to the Forest-wide direction and management area goals and standards of the Forest Plan and incorporates by reference the analysis disclosed in the FEIS and Record of Decision (1986), as amended.

The lease modification area is completely within the RNG (Range) Forest Plan Management Unit except for approximately 5.8 acres adjacent to springs/seeps that are within the RPN (Riparian) Forest Plan Management Unit as defined in the Land and Resource Management Plan on Page III-69. The selected alternative is consistent with Forest Plan direction for these management units.

The majority of the proposed coal modification area is within the East Mountain Inventoried Roadless Area. However, no roads, surface facilities or portals would be constructed and there would be no change in undeveloped character resulting from this action.

This action is in compliance with Section 106 of the National Historic Preservation Act of 1966. The area was surveyed for potential historic or archaeological resources in June 2004. None were found and the potential effects have been determined to be negligible. No known objects on or adjacent to the lease tract are listed in or are eligible for the National Register of Historic Places. No significant heritage resources will be affected by the action. A letter received from the Utah State Historic Preservation Office states that no historic properties would be affected in the area.

The unsuitability criteria for coal mining contained in Federal Regulations 43 CFR 3461 were addressed in the Forest Plan, Forest Plan FEIS, and the Mill Fork Tract and Crandall Canyon EAs. No areas were determined to be unsuitable for mining based on the criteria.

The potential adverse effects of the proposal are effectively mitigated by the included special lease stipulations and implementation of the SMCRA Regulations (30 CFR 700 to End) and State of Utah Federal Coal Mining and Reclamation Regulatory Program.

The leasing action and anticipated lease development will have no affect to known paleontological resources, floodplains, prime or unique rangelands, farmlands, or timberlands, or alluvial valley floors.

Compliance with the terms and conditions of the lease and other administrative actions associated with the lease, in accordance with Federal Regulations 43 CFR 3400, are the responsibility of the Bureau of Land Management. The review, approval, and enforcement of mining operations within the lease are the responsibility of the Department of Interior, Office of Surface Mining Reclamation and Enforcement under Federal Regulations 30 CFR 700 to End. As required under the Federal Coal Leasing Amendments Act of 1975 and the above regulations, future actions related to the lease that could affect surface resources require consultation and consent of the Forest Service.

A Biological Assessment (BA) was prepared, addressing the potential impacts to federally listed species. The BA concluded that this project would have no effect on the listed species that could occur in the project area. The potential effects on sensitive species have been analyzed and documented in a Biological Evaluation (BE) and referenced in the EA. The BE concluded that this project would have no effect on sensitive species that may occur in the project area.

The decision is consistent with the National Forest Management Act requirements as expressed in 36 CFR 219.27. There will be no impact to Management Indicator Species or their habitat. There will be no change in population trends in the Forest Plan Monitoring Report(s) resulting from implementation of this decision.

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.

X. IMPLEMENTATION DATE

If no appeals of this decision are filed, implementation of the decision may occur on, but not before, 5 business days after the close of the appeal filing period.

XI. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

- Appeal of BLM decision:

The BLM decision is subject to appeal in part or full, to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 calendar days following the expiration of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 4.21 (59 FR 4939, January 19, 1993) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a

Decision pending appeal shall show sufficient justification based on the following standards;

(1) The relative harm to the parties if a stay is granted or denied;

(2) The likelihood of the appellant's success on the merit;

(3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;

(4) Whether the public interest favors granting the stay.

- Appeal of Forest Service decision:

1) This decision is subject to appeal pursuant to Forest Service regulations at 36 CFR 215.7. Any written appeal must be postmarked or received by the Appeal Deciding Officer within 45 days of the publication of this notice in The Sun Advocate, Price Utah. The Appeal Deciding Officer is: Regional Forester, Intermountain Region 324 25th Street, Ogden, UT 84401. Appeals must meet the content requirements of 36 CFR 215.14.

2) 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, UT 84401. A copy of the notice of appeal must be filed simultaneously with Alice B. Carlton, 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.

3) Those who are eligible to appeal under 36 CFR 251.82 are also eligible to appeal under 36 CFR 215.7, but not under both parts.

This decision notice, FONSI, and EA are available for review at the Forest Service office in Price and the BLM, Utah State Office, in Salt Lake City, Utah. Any persons with questions related to this decision or project may contact Karl Boyer or Dale Harber at the Manti-La Sal National Forest, 599 W. Price River Drive, Price, UT 84501, 435-637-2817 or Gregg Hudson at the Bureau of Land Management, State Office, 324 South State Street, Salt Lake City, Utah, 801-539-4037.

for

ALICE CARLTON, Forest Supervisor
USDA Forest Service, Manti-La Sal National Forest

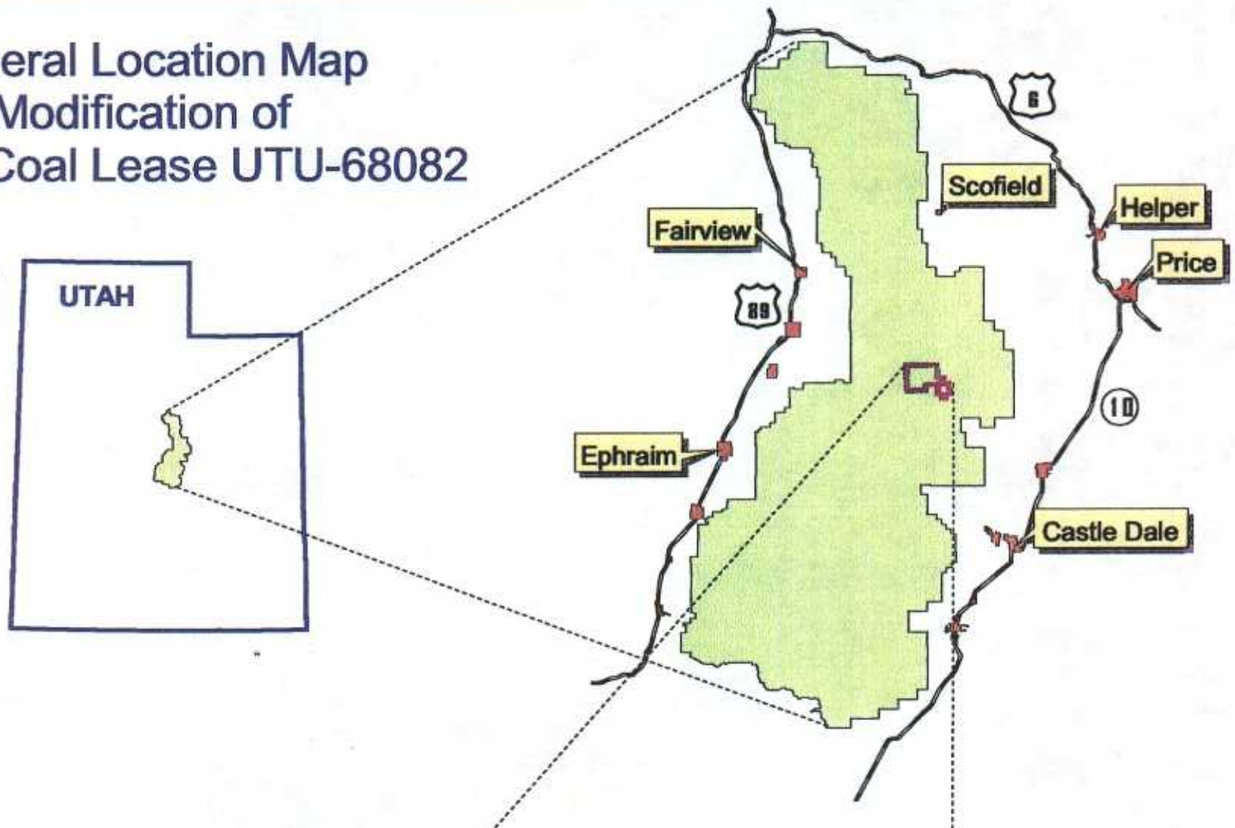
Date: 11/23/04

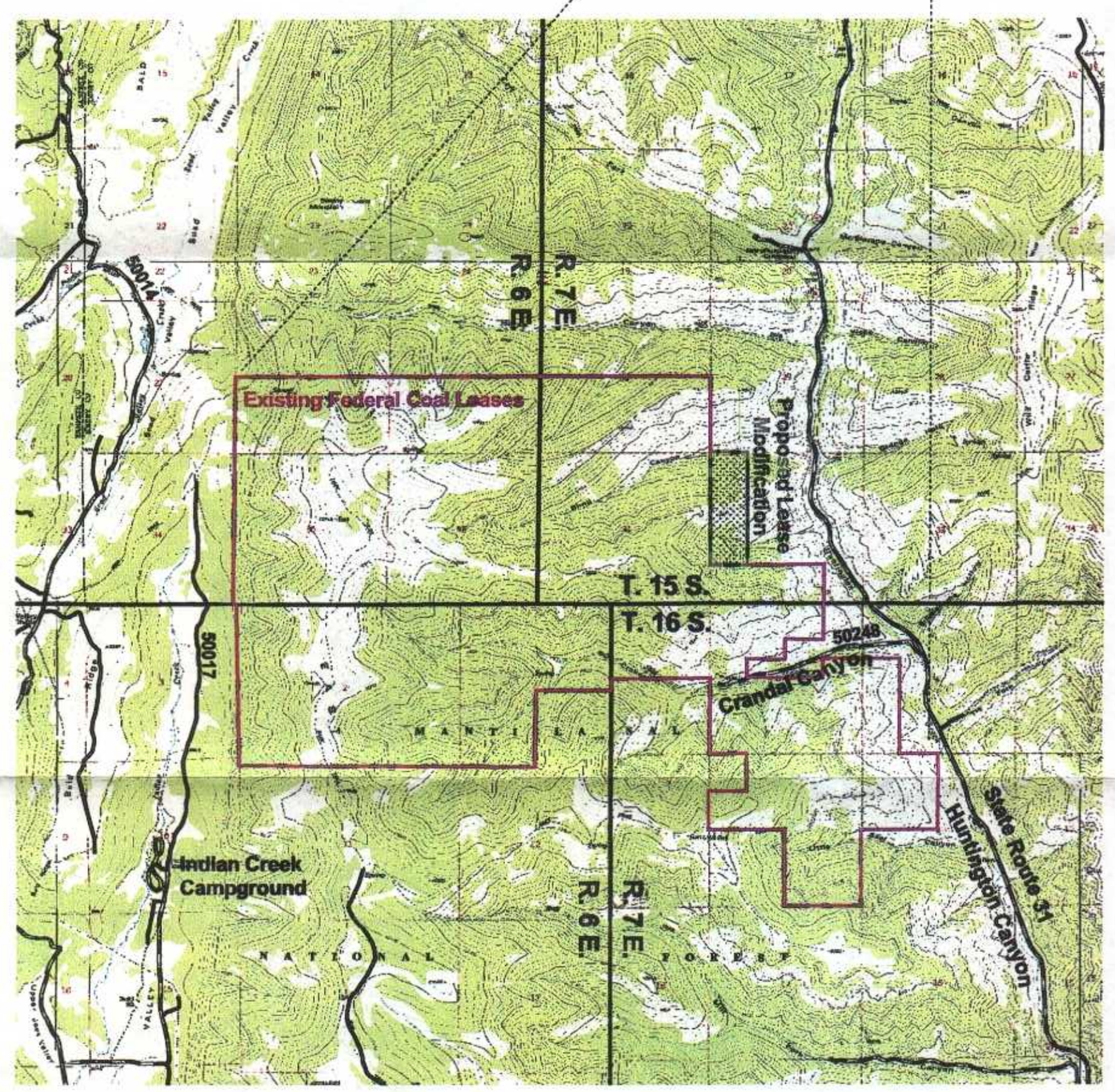
for SALLY WISELY, Utah State Director
Bureau of Land Management

Date: 11/29/04

ATTACHMENT 1

General Location Map
Modification of
Federal Coal Lease UTU-68082





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ATTACHMENT 2
STANDARD BLM AND SPECIAL FS
COAL LEASE STIPULATIONS
FOR FEDERAL COAL LEASE UTU-68082
March 2, 1994

1. The Regulatory Authority shall mean the State Regulatory Authority pursuant to a cooperative agreement approved under 30 CFR Part 745 or in the absence of a cooperative agreement, Office of Surface Mining. The authorized officer shall mean the State Director, Bureau of Land Management. The authorized officer of the Surface Management Agency shall mean the Forest Supervisor, Forest Service. Surface Management Agency for private surface is the Bureau of Land Management. For adjoining private lands with Federal minerals and which primarily involve National Forest Service issues, the Forest Service will have the lead for environmental analysis and, when necessary, documentation in an environmental assessment or environmental impact statement.

2. The authorized officers, of the Bureau of Land Management, Office of Surface Mining (Regulatory Authority), and the Surface Management Agency (Forest Service) respectively, shall coordinate, as practical, regulation of mining operations and associated activities on the lease area.

3. In accordance with Sec. 523(b) of the "Surface Mining Control and Reclamation Act of 1977," surface mining and reclamation operations conducted on this lease are to conform with the requirements of this Act and are subject to compliance with the Office of Surface Mining Regulations, or as applicable, a Utah program equivalent approved under cooperative agreement in accordance with Sec. 523(c). The United States Government does not warrant that the entire tract will be susceptible to mining.

4. Federal Regulations 43 CFR 3400 pertaining to Coal Management make provisions for the Surface Management Agency, the surface of which is under the jurisdiction of any Federal agency other than the Department of Interior, to consent to leasing and to prescribe conditions to insure the use and protection of the lands. All or part of this lease contain lands the surface of which are managed by the United States Department of Agriculture, Forest Service Manti-La Sal National Forest.

The following stipulations pertain to the lessee responsibility for mining operations on the lease area and on adjacent areas as may be specifically designated on the National Forest System lands.

5. Before undertaking activities that may disturb the surface of previously undisturbed leased lands, the lessee may be required to conduct a cultural resource inventory and a paleontological appraisal of the areas to be disturbed. These studies shall be conducted by qualified professional cultural resource specialists or qualified paleontologists, as appropriate, and a report prepared itemizing the findings. A plan will then be submitted making recommendations for the protection of, or measures to be taken to mitigate impacts for identified cultural or paleontological resources.

If cultural resources or paleontological remains (fossils) of significant scientific interest are discovered during operations under this lease, the lessee prior to disturbance shall, immediately bring them to the attention of the appropriate authorities. Paleontological remains of significant scientific interest do not include leaves, ferns, or dinosaur tracks commonly encountered during underground mining operations.

The cost of conducting the inventory, preparing reports, and carrying out mitigating measures shall be borne by the lessee.

6. If there is reason to believe that threatened or endangered (T&E) species of plants or animals, or migratory bird species of high Federal interest occur in the area the lessee shall be required to conduct an intensive field inventory of the area to be disturbed and/or impacted. The inventory shall be conducted by a qualified specialist and a report of findings will be prepared. A plan will be prepared making recommendations for the protection of these species or action necessary to mitigate the disturbance.

The cost of conducting the inventory, preparing reports, and carrying out mitigating measures shall be borne by the lessee.

7. The lessee shall be required to perform a study to secure adequate baseline data to quantify the existing surface resources on and adjacent to the lease area. Existing data may be used if such data is adequate for the intended purposes. The study shall be adequate to locate, quantify, and demonstrate the inter-relationship of the geology, topography, surface hydrology, vegetation, and wildlife. Baseline data will be established so that future programs of observation can be incorporated at regular intervals for comparison.

8. Powerlines used in conjunction with the mining of coal from this lease shall be constructed so as to provide adequate protection for raptors and other large birds. When feasible, powerlines will be located at least 100 yards from public roads.

9. The limited area available for mine facilities at the coal outcrop, steep topography, adverse winter weather, and physical limitations on the size and design of the access road, are factors which will determine the ultimate size of the surface area utilized for the mine. A site specific environmental analysis will be prepared for each new mine site development and for major modifications to existing developments to examine alternatives and mitigate conflicts.

10. Consideration will be given to site selection to reduce adverse visual impacts. Where alternative sites are available, and each alternative is technically feasible, the alternative involving the least damage to the scenery and other resources shall be selected. Permanent structures and facilities will be designed, and screening techniques employed, to reduce visual impacts, and where possible achieve a final landscape compatible with the natural surroundings. The creation of unusual, objectionable, or unnatural land forms and vegetative landscape features will be avoided.

11. The lessee shall be required to establish a monitoring system to locate, measure, and quantify the progressive and final effects of underground mining activities on the topographic surface, underground and surface hydrology and vegetation. The monitoring system shall utilize techniques which will provide a continuing record of change over time and an analytical method for location and measurement of a number of points over the lease area. The monitoring shall incorporate and be an extension of the baseline data.

12. The lessee shall provide for the suppression and control of fugitive dust on haul roads and at coal handling and storage facilities. On Forest Development Roads (FDR), lessees may perform their share of road maintenance by a commensurate share agreement if a significant degree of traffic is generated that is not related to their activities.

13. Except at specifically approved locations, underground mining operations shall be conducted in such a manner so as to prevent surface subsidence that would: (1) cause the creation of hazardous conditions such as potential escarpment failure and landslides, (2) cause damage to existing surface structures, or (3) damage or alter the flow of perennial streams. The lessee shall provide specific measures for the protection of escarpments, and determine corrective measures to assure that hazardous conditions are not created.

14. In order to avoid surface disturbance on steep canyon slopes and to preclude the need for surface access, all surface breakouts for ventilation tunnels shall be constructed from inside the mine, except at specifically approved locations.

15. If removal of timber is required for clearing of construction sites, etc., such timber shall be removed in accordance with the regulations of the surface management agency.

16. The coal contained within, and authorized for mining under this lease, shall be extracted only by underground mining methods.

17. Existing Forest Service owned or permitted surface improvements will need to be protected, restored, or replaced to provide for the continuance of current land uses.

18. In order to protect big game wintering areas, elk calving and deer fawning areas, sagegrouse strutting areas, and other critical wildlife habitat and/or activities, specific surface uses outside the mine development area may be curtailed during specific periods of the year.

19. Support facilities, structures, equipment, and similar developments will be removed from the lease area within 2 years after the final termination of use of such facilities. This provision shall apply unless the requirement of Section 10 of the lease form is applicable. Disturbed areas and those areas previously occupied by such facilities will be stabilized and rehabilitated, drainages reestablished, and the areas returned to a pre-mining land use.

20. The lessee at the conclusion of the mining operations, or at other times as surface disturbance related to mining may occur, will replace all damaged, disturbed, or displaced corner monuments (section corners, quarter corners, etc.) their accessories and appendages

(witness trees, bearing trees, etc.) or restore them to their original condition and location, or at other locations that meet the requirements of the rectangular surveying system. This work shall be conducted at the expense of the lessee, by a professional land surveyor registered in the State of Utah and to the standards and guidelines found in the manual of surveying instruction, U.S. Department of Interior.

21. The lessee at his expense will be responsible to replace any surface water identified for protection, that may be lost or adversely affected by mining operations, with water from an alternate source in sufficient quantity and quality to maintain existing riparian habitat, fishery habitat, livestock and wildlife use, or other land uses.

22. The 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 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 Interior, (2) uses of all existing improvements, such as Forest Development Roads, within and outside the area licensed, permitted or leased by the Secretary of Interior, and (3) use and occupancy of the NFS not authorized by a permit/operation plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to :

Forest Supervisor
Manti-La Sal National Forest
599 West Price River Drive
Price, Utah 84501
Telephone No.: (435) 637-2817

who is the authorized representative of the Secretary of Agriculture.

23. The lessee/operator will be requied to drill horizontally ahead of the advance of development workings to the west in the vicinity of the Joes Valley fault zone to locate any faults and determine if they contain significant amounts of water. If significant water is encountered, the operator will be required to take appropriate measures, subject to approval of the Bureau of Land Management and Forest Service, to prevent diverting this water into the mine workings.

24. Except at specifically approved locations, mining that would cause subsidence will not be permitted within a zone along the Joes Valley Fault determined by projecting a 22 degree angle-of-draw (from vertical) eastward from the surface expression of the Joes Valley Fault, down to the top of the coal seam to be mined

ATTACHMENT 3
SUPPLEMENTAL FS STIPULATION
MODIFICATION OF FEDERAL COAL LEASE UTU-68082

Stipulation #1

Except at locations specifically approved by the Authorized Officer, with concurrence of the surface management agency, full extraction mining will not be authorized where the fracture zone created by subsidence is projected to reach the surface, as calculated by 50 times the thickness of coal removed plus 50 feet.