

0018



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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June 7, 1999

TO: File  
THRU: Daron Haddock, Permit Supervisor  
FROM: Paul Baker, Reclamation Biologist

*ORH*  
*PB*

RE: 150-Acre Incidental Boundary Change, Canyon Fuel Company, LLC, SUFCO Mine, ACT/041/002-SR98(2), Folder #2, Sevier County, Utah

**SUMMARY:**

Canyon Fuel Company is proposing to add 150 acres to its permit area in the vicinity of the Right Fork of Box Canyon. The Forest Service and Bureau of Land Management have reviewed the proposal together with the Pines Tract lease and the proposal to longwall mine under the upper portion of Box Canyon. The Division received the original proposal December 7, 1998, and a revised proposal on May 20, 1999.

Because no surface disturbance is planned, this review does not address the reclamation regulations.

**ANALYSIS:**

## **ADMINISTRATIVE INFORMATION**

### **RIGHT OF ENTRY**

Regulatory Reference: R645-301-114

**Analysis:**

Page 1-34 has been modified to show an addition of 150 acres to lease U-63214. It says the lease was modified in November 1998, but a representative of the Bureau of Land Management said in a telephone conversation on December 23, 1998, the lease has not yet been modified. The application needs to contain a description of the documents upon which the applicant bases its legal right to enter and begin coal mining and reclamation operations in the permit area. This description must identify the documents by type and date of execution, identify the specific lands to which the documents pertain, and explain the legal rights claimed

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by the applicant.

**Findings:**

Information provided in the proposal is not considered adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must provide the following in accordance with:

**R645-301-114,** The application indicates the applicant has received the right to enter and begin mining and reclamation operations in the proposed addition to the permit area. This contradicts verbal information received from the Bureau of Land Management. The applicant needs to show its basis for claiming right of entry and discuss the rights claimed.

## **ENVIRONMENTAL RESOURCE INFORMATION**

### **HISTORIC AND ARCHAEOLOGICAL RESOURCE INFORMATION**

Regulatory Reference: R645-301-411

**Analysis:**

The application includes a cultural resources survey for the Pines Lease Tract, and a previous amendment proposal included information about the southernmost part of Box Canyon in the current permit area. Neither survey includes information about the 150-acre incidental boundary change area. However, according to the Forest Service archaeologist, Stan McDonald, the Forest Service did not feel it was necessary to conduct a survey in the incidental boundary change area because most of the area is on top of the plateau. Even if cultural resources were present, it is not likely they would be adversely affected because of the nature of the topography. According to Mr. McDonald, the State Historic Preservation Officer and the Advisory Council on Historic Preservation have already concurred with this determination. Therefore, while it does not appear the application needs more baseline information, it does need to contain documentation of the consultation that has been done.

The applicant previously submitted a report on the cultural resources of the upper part of Box Canyon as part of the proposal to undermine this area. While the proposal was denied because the Forest Service did not concur, the cultural resources inventory contains valuable information about the resources of the area, and the denied amendment also included documentation of consultation with the Forest Service and the State Historic Preservation officer for mining other areas. This information needs to be included in the mining and reclamation plan.

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Any report that would allow a person to locate any of the cultural resources must be kept confidential. The applicant has marked the reports as being confidential, and the Division needs to ensure they are kept in the confidential file.

**Findings:**

Information provided in the application is not considered adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must provide the following in accordance with:

**R645-301-411.140**, The application needs to contain evidence of consultation between appropriate agencies concerning potential effects to cultural resources in both the incidental boundary change area and the area where the applicant had previously proposed full extraction mining. The cultural resources survey for the upper part of Box Canyon needs to be included in the plan, and any information that would allow a person to locate significant sites must be kept confidential.

## **VEGETATION RESOURCE INFORMATION**

Regulatory Reference: R645-301-321

**Analysis:**

The applicant has updated Plate 3-1 to show vegetation types in the area proposed to be added to the permit area. Most of this area is a sagebrush/grass community with some area of Douglas fir/spruce/ limber pine near Box Canyon.

The greatest potential effects on vegetation would be on riparian areas caused by water depletion. This is discussed under "Fish, Wildlife, and Vegetation Resource Protection" below.

**Findings:**

Information provided in the application is considered adequate to meet the requirements of this section of the regulations.

## **FISH AND WILDLIFE RESOURCE INFORMATION**

Regulatory Reference: R645-301-322

**Analysis:**

### **Wildlife Information**

Wildlife maps of the permit area, Plates 3-2 and 3-3, have been extended to include the proposed lease addition. There is no new information in the text.

Two golden eagle nests are in the vicinity of the area that would be mined, but it does not appear they could be affected by the mining operations. Also in this area is high priority elk summer range and high priority deer winter range. Neither of these is considered habitat of unusually high value as defined by the regulations.

All riparian areas and water sources are considered critical habitat, and the main potential effects on wildlife would be from water loss. However, no further wildlife information is required at this time.

### **Threatened or Endangered Species**

The application includes updated information for the mining and reclamation plan about federally-listed threatened, endangered, proposed, and sensitive species. The applicant has also updated the list of species of special concern to the State of Utah. This information appears to be current and accurate.

The Pines Tract Final Environmental Impact Statement (EIS) discusses listed threatened, endangered, and sensitive species that could occur in the area or could be affected by mining. Of these, those that could be affected are four listed fish species of the Upper Colorado River basin, northern goshawks, spotted bats, northern three-toed woodpeckers, flammulated owls, and the Link Trail columbine. While this information is not included in the application, it is available to the Division; however, it should be referenced in the application.

The species most likely to be affected according to the Environmental Impact Statement is the Link Trail columbine. According to Bob Thompson of the Forest Service, there are two known populations of this species in Box Canyon. One is in the upper part of the left fork of the main fork of the canyon. The other is apparently lower in the canyon to the west of the 150-acre area. According to Mr. Thompson, this second population is not as well established as the one in the upper part of the canyon.

### **Findings:**

Information provided in the proposal is not considered adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must supply the following in accordance with:

**R645-301-322.200**, Required baseline information concerning threatened, endangered

and sensitive species is either in the application or the Pines Tract Environmental Impact Statement. The application needs to reference the EIS for the information not included in the application.

## **LAND USE RESOURCE INFORMATION**

Regulatory Reference: R645-301-411

### **Analysis:**

Plate 4-1 is a land use map, and it has been updated to show land uses in the area of the proposed addition. The land is used for grazing and nearby areas are used for limited timbering and grazing. Considering the nature of the proposed mining activities, the information provided is considered adequate.

### **Findings:**

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

## **OPERATION PLAN**

## **PROTECTION OF PUBLIC PARKS AND HISTORIC PLACES**

Regulatory Reference: R645-301-411.140

### **Analysis:**

Based on conversations with representatives of the Forest Service and the applicant, it appears necessary approvals have been obtained from the State Historic Preservation Officer and the Advisory Council on Historic Preservation. It is unlikely significant cultural resources would be adversely affected by the proposed mining operations. As discussed elsewhere in this review, the application needs to document the consultation that has been done with these entities. This is not considered a deficiency for this section.

### **Findings:**

Information provided in the proposal is considered adequate to meet the requirements of this section of the regulations.

## **FISH, WILDLIFE AND VEGETATION RESOURCE PROTECTION**

Regulatory Reference: R645-301-330

### **Analysis:**

Direct adverse effects to wildlife are highly unlikely since no surface disturbance is proposed and there are no known raptor nests above the proposed addition to the permit area.

The listed threatened or endangered fish of the Upper Colorado River basin would be affected mostly by water depletions. No net depletions beyond those presently occurring with operation of the mine area are expected to occur in mining the 150-acre area.

The proposed addition to the permit area contains few cliffs, and they are not large. Therefore, there is little chance of adversely affecting species that use the escarpments. Three-toed woodpeckers, goshawks, and flammulated owls use Ponderosa pines and other tree species in and near the area for roosting and nesting. However, it is unlikely trees would be affected. The EIS concluded that individuals of these species could possibly be affected but that there would be no significant effects to the populations or to the species.

The most likely effects would be a disruption of water supply to the creek and springs in Box Canyon. The proposal to longwall mine under Box Canyon includes studies of the hydrology and riparian vegetation of the Box Canyon area and analyses of potential effects of mining the area. It is possible there will be some interception of ground and surface water flows, but the exact effects are not known. According to the Mayo and Associates report, any disruption will probably be temporary, and inflow from springs on the sides of the canyon should provide at least some water downstream. The applicant will be monitoring water flows in the creek and some of the springs.

The applicant currently has a plan for monitoring the effects of subsidence on vegetation through taking color infrared photos every five years. Based on discussions with Forest Service personnel who work with remote sensing, it appears color infrared photographs will be more sensitive to changes in the vegetation composition and levels of stress than on-the-ground surveys. This photography began in 1987, and, according to operator, has been done in 1991 and 1996. The applicant has committed to taking the photos at least every five years.

Ideally, the applicant should take color infrared photographs showing the entire lease modification area just before mining and again one and two years after mining. However, the existing photographs should provide adequate baseline information, and pictures taken again in 2001 would show long-term effects of the mining. The photography is not designed to detect effects that occur in a very short period, so waiting until 2001 is more likely to indicate what long-term changes might occur in the vegetation community. If there is drastic disruption of

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water flows or if marked changes are noted in the vegetation, it is possible additional monitoring will be needed.

The Link Trail columbine is the most likely endangered, threatened, or sensitive species to be affected. The population at the top of Box Canyon would not be affected, but it is possible the population lower in the canyon could be affected if the water supply was disrupted. The application needs to include a plan to monitor this population before and for a few years after mining. This monitoring plan could consist of locating the plants, counting them, photographing them, and taking notes about their condition and about the area around them.

**Findings:**

Information provided in the application is not considered adequate to meet the requirements of this section of the regulations. Prior to final approval, the applicant must supply the following in accordance with:

**R645-301-330**, The application needs to include a plan to monitor the population of Link Trail columbines in the part of Box Canyon near the lease modification area.

**RECOMMENDATIONS:**

The application should not be approved until deficiencies discussed in this review have been adequately addressed.