



United States Department of the Interior  
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE  
2369 WEST ORTON CIRCLE, SUITE 50  
WEST VALLEY CITY, UTAH 84119

In Reply Refer To

FWS/R6  
ES/UT

August 20, 2002

RECEIVED

AUG 23 2002

DIVISION OF  
OIL, GAS AND MINING

Ms. Pamela Grubaugh-Littig, Permit Supervisor  
Utah Division Oil, Gas, and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

*Jacoming*  
*C/041/002*

RE: Section 7 Consultation on Muddy Tract Coal Exploration, Canyon Fuel Company, LLC,  
SUFCO Mine, C/041/002-EX02D

*(for received)*  
*earliest*

Dear Ms. Grubaugh-Littig:

The U.S. Fish and Wildlife Service (Service) has reviewed your letter of August 13, 2002 regarding the subject project. Potential impacts to proposed or listed species from mining activities have been previously addressed in the Service's September 24, 1996 Biological Opinion and Conference Report on Surface Coal Mining and Reclamation Operations under the Surface Coal Mining and Reclamation Act of 1977. As part of the terms and conditions of this BO, the regulatory authority must implement and require compliance with any species-specific protective measures developed by the Service field office and the regulatory authority. Protective measures for the Mexican spotted owl are outlined in your August 13 letter, and include:

- Drilling will begin after the end of the Mexican spotted owl breeding season (August 31), and will continue for four weeks.
- No structures or monitoring equipment will remain on-site after exploration activities have been completed.
- All disturbance associated with the drill location will be immediately reclaimed.

Based on your commitment to implement the aforementioned protective measures, we concur with your "not likely to adversely affect" determination for threatened and endangered species. We understand that one year of surveys for Mexican spotted owls has been conducted in and near the project area; the aforementioned commitments negate the need for a 2-year protocol survey for this proposed action. However, we recommend completion of the two year survey protocol in the event that future development activities are planned.

Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered. Only a Federal agency can enter into formal Endangered Species Act section 7 consultation with the Service. A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such a designation. The ultimate responsibility for compliance with ESA section 7, however, remains with the Federal agency.

We appreciate your interest in conserving endangered species. If further assistance is needed or you have any questions, please contact Laura Romin, at (801) 975-3330 extension 142.

Sincerely,

  
for Henry R. Maddux  
Utah Field Supervisor

cc: Ron Sassaman, Office of Surface Mining, 1999 Broadway, Suite 3320, Denver, CO  
80202

Frank Howe, UDWR, Salt Lake City

Chris Colt, UDWR, Price