



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

0043

File Code: 2820-4

Date: August 22, 2003

Mary Ann Wright  
Assistant Director  
Utah Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, UT 84114-5801

RECEIVED

AUG 25 2003 <sup>MBW</sup> 8/25/03

*Incoming*  
*8/25/03*  
DIV. OF OIL, GAS & MINING

RE: Undermining East Fork of Box Canyon Amendment, Canyon Fuel Company, SUFCO Mine, C/041/0002

Dear Mary Ann:

I have reviewed the July 30, 2003 application to revise the Mining and Reclamation Plan for the SUFCO Mine. I do not consent/concur with the proposed revision as it is not consistent with terms and conditions required by the Forest Service for the Pines Lease (UTU-76195) nor for concurrence to the original mine plan approval and permit. Forest Service terms and conditions are documented in the Forest Service Record of Decision (FS ROD), 1999 based on the Pines Tract Project FEIS; copy enclosed for your reference.

I believe that approval of the proposal would likely result in a change to the post-mining land use, functional impairment of the associated ecosystem, and would be contrary to the Land and Resource Management Plan for the Manti-La Sal National Forest. Additionally both Forest Service and BLM Records of Decision, authorizing leasing of the Pines Tract contained requirements that preclude mining that could cause subsidence of areas proposed for full extraction mining in the proposed amendment.

The Forest Supervisor, Manti-La Sal National Forest, consented to leasing the tract subject to specific terms and conditions. The FS ROD states (Part VI.A., Page 7): "Specific terms and conditions of my consent are given in 1 and 2 below. 1. For the perennial streams in Box Canyon and the East Fork of Box Canyon, Alternative C is the selected alternative. Stipulation 9 from the Forest Plan will be implemented, thus these streams will be protected from mining that would cause subsidence. However, I do consent to full-support mining under perennial and perennial-functioning stream reaches where the separation (overburden thickness) between the stream elevation and the elevation of the mining is more than 600 feet. Specific stream reaches to be protected from subsidence include: i) Box Canyon..., and ii) the East Fork of Box Canyon, including the southwest fork up to and including Joes Mill Ponds."

Further, the ROD states (Section VI, Page 9): "Should subsidence of perennial streams be authorized, there is a high potential for subsidence-induced cracking, both of a temporary and of a more permanent nature, to occur in the stream channels. The stream channels flow across exposed bedrock that is highly susceptible to this cracking (FEIS, page 3-63 and sections 3.1, 3.2 and 3.3). Potential outcomes of cracking include diversion of some or all flow in the streams and dewatering of alluvial and colluvial deposits (FEIS, pages 3-47, 3-70 to 79). Flow diversion

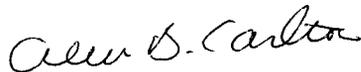


or dewatering may stress the health of riparian vegetation, which in turn translates to a reduction in the function and value of riparian habitat (FEIS, pages 3-99 to 104, and 3-113 to 13-119). Duration of these effects and the time for self-healing has been estimated at up to 2 years (FEIS, pages 3-70, 3-75, 3-101, and 3-113) assuming that normal natural conditions persist, but may be longer based on season, climate cycle and crack morphology (FEIS, page 3-48, pages 3-70 to 71, Appendix E, Response to comment J-11)."

The ROD also points out that the estimate of effects is "...based on professional opinions, and there remains some disagreement between resource specialists of the MLS, BLM and third party contractor regarding the effects and their duration. Attempts to seal subsidence cracks at Rock Pond and associated ephemeral drainage have been marginally successful (FEIS, page 3-19). Given this information, it would be irresponsible of me to allow jeopardizing the integrity of the perennial streams, and knowingly allow damage to these resources to occur."

Based on observations made of subsidence cracks in the main fork of Box Canyon, numerous cracks would occur in the channel bottoms, and contrary to predictions contained in the FEIS, I do not see evidence that cracks in stream bottom will substantially seal naturally by filling with sediment within 2 years or as stated in the current proposal. Many of the cracks in the main fork of Box Canyon remain open. This may be due to decreased flows over the last 5 years under the drought conditions or the nature of the cracks and resource conditions. In addition, I remain unconvinced that all cracks can be located beneath the alluvial/colluvial materials in the drainages to allow effective sealing with bentonite. Sealing of obvious cracks in the exposed sandstone channel could mitigate the potential effects to some extent, but many cracks would likely remain unfound and untreated. Efforts to locate and fill all of the cracks would require methods that could also be equally damaging to the ecosystem. Considering the very low perennial base flow and my charge to maintain favorable conditions of water flow and properly functioning ecosystems on National Forest System lands, any loss of flow could jeopardize their integrity.

Sincerely,

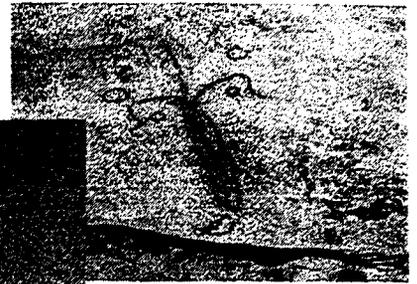


ALICE B. CARLTON  
Forest Supervisor

Enclosure

cc:

Al Klein, OSM Regional Director  
Sally Wisely, BLM Utah State Director  
Regional Forester, Intermountain Region



# PINES TRACT PROJECT

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## Record of Decision



January 28, 1999



## RECORD OF DECISION

### PINES TRACT PROJECT FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)

USDA Forest Service, Region Four  
Manti-La Sal National Forest  
Emery and Sevier Counties, Utah

## I. INTRODUCTION

### A. Decisions To Be Made/Authorities

This Record of Decision (ROD) documents findings specific to three separate actions related to leasing and development of Federal coal reserves on National Forest System Lands administered by the Manti-La Sal National Forest (MLS) analyzed in the Pines Tract Project Final Environmental Impact Statement (FEIS). This ROD documents my decisions including terms and conditions of any consent, for the Bureau of Land Management, Utah State Office (BLM) to lease lands on the MLS for underground coal mining. It also documents my decision on whether or not to consent/concur for the Utah Division of Oil, Gas and Mining (UDOGM) to approve a proposal to amend an existing mine permit which proposes mining under a perennial drainage.

The BLM participated in the analysis as a jointly-responsible agency. The Utah State Director (BLM responsible official) will document his respective decisions on the Pines Tract Project FEIS in a separate and distinct ROD.

With this ROD, I am making the following decisions as discussed on pages 1-10 and 1-11 of the FEIS:

1. Whether or not to consent to the BLM leasing the Pines Coal Lease Tract (UTU-76195), and bring forward conditions for the protection of non-mineral interests to be included in the lease terms. My consent to leasing by BLM is required under the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments of 1975 (MLA, as amended).
2. Whether or not to consent to the BLM modifying the existing Quitcupah Coal Lease (U-63214) by adding 150 acres of previously unleased land. My consent is required under the MLA, as amended.
3. Whether or not to consent/concur to mining that would cause subsidence of Box Canyon and the associated perennial stream and escarpments. Subsidence of Box Canyon is not currently authorized by lease stipulations or the mine permit. Special Coal Lease Stipulation #13 (Forest Plan Special Coal Lease Stipulation #9) allows subsidence of perennial streams and escarpments only at specifically approved locations. The current Permit Application Package (PAP)/Mine Plan and permit do not authorize mining that would cause subsidence of Box Canyon.

My consent/concurrence is required under the Federal Coal Leasing Amendments Act of 1975 prior to BLM authorizing subsidence of perennial streams and escarpments in the mine plan under provisions of Special Coal Lease Stipulation #13.

My consent/concurrence is required under the MLA, as amended, the Surface Mining Control and Reclamation Act of 1977, and enacting Federal Regulations. The Utah Coal Rules also require consent/concurrence of the Forest Service prior to approval of the PAP amendment by the Utah Division of Oil, Gas and Mining (UDOGM) on National Forest System lands.

I am the responsible Forest Service official for this project. The scope of my decisions are limited to the specific National Forest System Lands described in the FEIS and this ROD. The decisions I am making are site-specific. They are not programmatic and do not change Forest Plan direction for management of minerals or other resources in the Project Area.

**B. Relationship Of This Action To Other Activities Within The Pines Tract Project Area**

These decisions do not encompass all resource management practices that may occur within the Project Area. Previous environmental documents, past and ongoing activities, and reasonably foreseeable activities were identified and included in cumulative effects analyses presented in the FEIS. Future resource management proposals within the area would have to be considered on their own merits in subsequent decisionmaking.

**II. OVERVIEW OF THE PROJECT AREA**

The Project Area lies within the Ferron-Price Ranger District in Emery and Sevier Counties, Utah, about 6 miles northwest of the town of Emery. The Project Area encompasses about 7,600 acres of National Forest System lands with Federal coal. The Project Area is defined by the boundaries of the Pines Coal Lease Tract, the Quitchupah Lease Modification Area, and the Permit Amendment Area (Box Canyon Area) as indicated on Figure 1 and by the following legal descriptions:

**Pines Coal Lease Tract (UTU-76195)**

Township 20 South, Range 5 East, Salt Lake Baseline and Meridian (SLM)

Section 35, S $\frac{1}{2}$  NE $\frac{1}{4}$ , SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , S  $\frac{1}{2}$  SW  $\frac{1}{4}$ , SE $\frac{1}{4}$

Section 36, W  $\frac{1}{2}$  SW  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SW  $\frac{1}{4}$

Township 21 South, Range 5 East, SLM

Section 1, lots 3-4, S $\frac{1}{2}$  SW  $\frac{1}{4}$ , SW  $\frac{1}{4}$  SE  $\frac{1}{4}$

Section 2, lots 1-4, S  $\frac{1}{2}$  S  $\frac{1}{2}$

Sections 3, lots 1-2, S  $\frac{1}{2}$  SE  $\frac{1}{4}$

Sections 10, E $\frac{1}{2}$

Sections 11-14 all

Section 15, E $\frac{1}{2}$

Section 22, E $\frac{1}{2}$

Sections 23-24, all

Section 25, N $\frac{1}{2}$ , N $\frac{1}{2}$  S $\frac{1}{2}$

Section 26, N  $\frac{1}{2}$ , NE  $\frac{1}{4}$  SW $\frac{1}{4}$ , E $\frac{1}{2}$  NW  $\frac{1}{4}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$

Township 21 South, Range 6 East, SLM

Section 19, lots 3-4, E  $\frac{1}{2}$  SW  $\frac{1}{4}$

Section 30, lots 1-3, E  $\frac{1}{2}$  NW  $\frac{1}{4}$ , NE  $\frac{1}{4}$  SW  $\frac{1}{4}$

**Quitchupah Lease Modification Area (U-63214)**

Township 21 South, Range 5 East, SLM

Section 10, SE  $\frac{1}{4}$  NW $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$ , E $\frac{1}{2}$  E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ , E $\frac{1}{2}$  E $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , E $\frac{1}{2}$  E $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$

**Permit Amendment Area (Box Canyon Area)**

Township 21 South, Range 5 East, SLM

Section 15, W $\frac{1}{2}$

The following summarizes key attributes of the Project Area:

**Geology/Topography:** The area is a flat to rolling upland plateau with steeply incised canyons, with elevations ranging from 6,900 feet to 9,000 feet. The Castlegate sandstone forms the cap rock through much of the Project Area and the steep cliff escarpment surrounding the plateau. Where it is exposed, it forms the rim and walls of Box Canyon and the East Fork of Box Canyon (FEIS, page 3-12). Box Canyon, the East Fork of Box Canyon, Muddy Creek and Link Canyon dissect the plateau, creating impressive canyons. The drainages have formed steep-walled, narrow-bottomed canyons that have exposed sandstone escarpments. The escarpment cliff faces reach up to 200 feet in Box and the East Fork of Box Canyons, and up to 1,000 feet

## Pines Tract Project Record of Decision

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in Muddy Canyon. Portions of the Project Area has exposed sandstone on the land surface. The streams in Box Canyon and the East Fork Box Canyon flow on the exposed sandstone bedrock (FEIS, page 3-63). The coal reserves present are part of the Wasatch Plateau coalfield (FEIS, page 3-11).

**Groundwater and Surface Water Resources:** Availability of water is a limiting factor in the Project Area (FEIS 3-182). Distribution of water resources is generally confined to the two small perennial drainages (Box Canyon and the East Fork Box Canyon) that originate within the Project Area (FEIS, page 3-57 and Figure 3-8). The majority of springs occur within these two drainages (FEIS, Figure 3-4). Eight stock ponds have been developed to aid in providing water for wildlife and livestock on the grazing allotments that overlap the Project Area (FEIS, Figure 3-8 and page 3-182). The available live water sources (i.e. springs seeps, perennial drainages) are vital for wildlife, livestock and riparian vegetation and habitat (FEIS, page 3-96, Figure 3-11, page 3-111 to 112, and page 3-182).

**Vegetation and Special Status Species:** The Project Area supports nine vegetation communities: grassland-perennial forb, sagebrush, mountain brush, conifer timber, aspen/deciduous forest, pinyon/juniper woodland, riparian, a mixed type, and barren ground (FEIS page 3-92 and Figure 3-10). The primary vegetation community is a conifer timber forest of ponderosa pine, white fir and Douglas-fir which is unlike other areas on the MLS. In general, the vegetation communities are dispersed across the Project Area, except that riparian vegetation is mainly confined to the perennial stream corridors and locations of seeps and springs (FEIS, page 3-62, 3-96 and Figure 3-11).

A sensitive plant species known to occur in the Project Area is the Link Canyon columbine. Three confirmed populations of the Link Canyon columbine have been found in the Project Area associated with wet areas at the heads of Link Canyon and Box Canyon (FEIS, page 3-66 and 3-133). A fourth unconfirmed population may also be present at a rock shelter site in the East Fork of Box Canyon (project file).

**Wildlife and Special Status Species:** Elk are the most abundant big game species and are a Forest management indicator species (FEIS, page 3-107). The Project Area hosts winter range for a part of the Manti Elk Herd, the largest in the state of Utah. Sage grouse were once abundant in the area, but populations have declined. Sage grouse are dependent on springs and riparian areas in the Project Area for brood habitat (FEIS, page 3-111). Macroinvertebrates are also a Forest management indicator species and are present at the water sources in the Project Area (FEIS, page 3-112). There are no known fisheries within the Project Area. However, there are fish below the Project Area in lower Box Canyon and Muddy Creek (FEIS, 3-112).

The bald eagle, a threatened species, may occur in the Project Area as a transient species. No roost sites have been found in the Project Area (FEIS, page 3-130). An eyrie for a peregrine falcon, an endangered species, has been found near the Project Area and the nesting pair may forage in portions of the Project Area (FEIS, page 3-130). Suitable habitat for the southwest willow flycatcher, also an endangered species, is present but its confirmed presence and use are undetermined at this time. A species of willow flycatcher has been found on the MLS, but it is undetermined if it is the southwest willow flycatcher. DNA testing is on-going at this time (FEIS, page 3-131). The drainages in the Project Area are part of the Colorado River Basin which is habitat for four endangered fish species: the humpback chub, the bonytail chub, the razorback sucker, and the Colorado squawfish. Critical habitat for these species are large rivers, which do not occur in the Project Area (FEIS, page 3-131 and 132). Sensitive species known, or suspected to occur within the Project Area include the spotted bat, Northern goshawk, flammulated owl, and three-toed woodpecker (FEIS, pages 3-136 to 3-139).

**Cultural/Paleontological Resources:** The Project Area is noted for containing many significant archaeological sites, several of which have been determined to be eligible for listing in the National Register of Historic Places (FEIS, Table 3.7). These sites include rockshelters and surface artifact scatters containing chipped stone artifacts, groundstone artifacts, firehearths and other features associated with prehistoric occupation of the area. The sandstone outcrops in the stream canyons frequently form rock overhangs which were used by prehistoric peoples as shelters. Diagnostic artifacts and recent research at nearby sites provide evidence for long-term occupation of the Project Area possibly beginning in the Paleoindian Period (ca. 7,500 to 11,500 years ago) to the Protohistoric Period (after A.D. 1300). Only minor paleontological resources exist in the Project Area (FEIS, page 3-168).

**Land Use/Recreation:** Existing land uses include underground coal mining, timber production, transportation corridors, livestock grazing, wildlife habitat and dispersed recreation (FEIS, page 3-171). The main recreational opportunity in the area is big game hunting. To a lesser extent, the area is used for hiking, dispersed camping and sight-seeing. Two Roadless Area Review and Evaluation (RARE) II areas were inventoried in the Project Area in the late 1970s (FEIS, page 3-175). These areas were not designated as wilderness under the Utah Wilderness Act of 1984 and were not classified for roadless or semi-primitive recreation management under the Forest Plan in 1986.

**Range:** The Project Area overlaps with a grazing allotment that supports 1,387 head of cattle early in the grazing season. Eight ponds have been developed in the Project Area for livestock distribution, which also benefit wildlife. The Link Canyon Troughs and the Joes Mill Ponds (FEIS, Figure 3-17) are the most reliable water sources in the Project Area (FEIS, page 3-182).

**Visual Resources/Noise/Air Quality:** The majority of the Project Area is designated as middleground viewed, medium sensitivity level, minimal variety class, and is considered natural and undisturbed (FEIS, page 3-195). The Castlegate sandstone escarpments form a visual resource in the area. Since the Project Area is remote, the nearest noise receptors are about seven miles away, in the town of Emery (FEIS, page 3-204). The Project Area is a higher elevation airshed that experiences excellent air quality (FEIS, page 3-228).

**Transportation:** Road construction and historic timber harvest have occurred within the Project Area. Established road systems in the area are managed and maintained as forest development roads open to the public (FEIS, Figure 3-27). These roads are generally single-lane native surface roads, passable during the drier months of the year with high clearance vehicles. Some of these roads are closed to motorized vehicles during the general hunt to reduce stress to the elk herd. The forest development roads connect with local roads that access the major highways (FEIS, pages 3-233 to 3-236).

**Socioeconomics and Coal Recoverability:** Coal mining on the Wasatch Plateau is important to the local and State economies (FEIS, section 3.14).

### III. NEED FOR ACTION

The Purpose and Need for this project are to: 1) consider leasing additional Federal coal lands to allow economic recovery of coal reserves, 2) consider allowing recovery of additional coal reserves previously not authorized due to other resource concerns, 3) determine the conditions under which coal reserves may be recovered to provide protection for non-coal resources while allowing optimum economic recovery, and 4) evaluate potential environmental consequences of leasing additional Federal coal lands for underground coal resource development (FEIS, page 1-2). The project was undertaken by the Forest Service and BLM after Canyon Fuel Company submitted applications to access coal reserves in the Project Area for development through their existing SUFCO mine. Detailed discussions on the application and leasing processes are given in Section 1.3 of the FEIS (pages 1-3 to 1-10).

### IV. SUMMARY OF ALTERNATIVES CONSIDERED

I considered three "action" alternatives and the "No Action alternative." These four alternatives encompass a reasonable and complete spectrum of possible decisions that range from no leasing/mining to mining all recoverable reserves with no special stipulations for the protection of non-mineral interests. This comprehensive range of actions allows me to understand and select portions of each alternative as necessary to provide coal reserves and protect specific areas and resources of the National Forest System lands.

Because coal lease tracts are offered through a competitive bid process, the analysis in the EIS considered the environmental consequences of a company other than the applicant being granted the Pines Federal Coal Lease Tract. As such, the FEIS analyzes the effects of Reasonably Foreseeable Development Scenarios (RFDS) for the Project Area. One of the development scenarios considered was eliminated from detailed evaluation because of

## Pines Tract Project Record of Decision

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environmental and operational constraints as discussed in Section 2.5 of the FEIS (page 2-18). Chapter 2 of the FEIS contains a complete description of the alternatives and process used to identify them. Following is a summary of the alternatives considered in detail.

### Alternative A. No Action Alternative - No Lease Alternative/No Subsidence of Box Canyon

#### Purpose/Design:

The No Action alternative is required by the National Environmental Policy Act (NEPA). Under the No Action/No Lease alternative, no mining would take place within the Pines Coal Lease Tract. The tract would not be leased at this time. The SUFCO mine would continue to mine under its existing Quitchupah Lease. In addition, mining would be conducted in a manner to prevent subsidence under Box Canyon and no modification of the Quitchupah Lease would occur. Effects from on-going land uses in the Project Area would continue at present levels. No mitigation measures or monitoring would be required other than meeting Forest Plan direction, standards and guidelines (FEIS, page 2-14). This alternative is consistent with the Forest Plan.

### Alternative B - Lease the Proposed Area with Standard BLM Lease Terms and Conditions

#### Purpose/Design:

This alternative addresses the portions of the Project Area that are currently "unleased" Federal coal lands (i.e. the Pines Federal Coal Lease Tract and the 150-acre Lease Modification Area for the existing Quitchupah Lease, see FEIS, Figure 2-1). The Pines Coal Lease Tract would be leased at this time. This alternative assumes the leases would be issued with the Standard BLM Lease Terms and Conditions on BLM Form 3400-12 (April 1996) Sections 1 to 14. This alternative does not include application of the Special Coal Lease Stipulations (SCLS) for protection of non-coal resources (Section 15 Special Stipulations, on the BLM Form).

This alternative is intended to provide a comparison to including the SCLS for protection of non-coal resources in Alternatives C and D. The SCLS would be added to Alternatives C and D as a means of avoiding and mitigating impacts. The development scenario assumes that all mineable coal would be recovered to the fullest extent using currently accepted industry practices. Alternative B could result in potential environmental impacts within the Project Area that could exceed Forest Plan thresholds and would therefore be inconsistent with the Forest Plan (FEIS, page 2-14).

About 74.4 million tons (MT) of coal could be recovered under this alternative (FEIS, Table 3.26).

Alternative C - Lease the Proposed Areas with Standard BLM Lease Terms and Conditions, with Special Coal Lease Stipulations for Protection of Non-Coal Resources (which would not allow subsidence of escarpments and perennial drainages in the analysis area). *The environmentally preferred alternative is Alternative C.*

#### Purpose/Design:

This alternative addresses application of Standard BLM Lease Terms and Conditions along with application of SCLS for the protection of non-coal resources. Specifically, it addresses issues identified through application of the 18 SCLS presented in the Forest Plan that are designed to lessen anticipated environmental effects, plus two additional stipulations. This alternative encompasses the entire Project Area (see FEIS, Figure 2-2). This alternative is consistent with the Forest Plan.

This alternative assumes that full extraction mining would occur in the majority of the Project Area. Mining that would cause subsidence would not be allowed under where perennial drainages and escarpments occur. Specifically, no mining that would cause subsidence would be allowed under the

perennial streams and escarpments in Box Canyon or the East Fork of Box Canyon, or under the escarpments in Wiley's Fork and Link Canyon (FEIS, page 2-16).

About 62.4 MT of coal could be recovered under this alternative (FEIS, Table 3.26).

**Alternative D** - Lease the proposed areas with Standard BLM Lease Terms and Conditions, and Special Coal Lease Stipulations for Protection of Non-Coal Resources, allowing subsidence of perennial drainages and escarpments in the analysis area.

### Purpose/Design:

This alternative provides for mining that could cause subsidence to occur under perennial drainages and escarpments as long as it would be consistent with laws, regulations and Forest Plan direction. This alternative includes full extraction longwall mining under perennial drainages and escarpments within the Project Area. Specifically, this alternative allows mining that would cause subsidence under Box Canyon and the East Fork of Box Canyon. The current SCLS 9 from the Forest Plan (Appendix B, page B-2) would not be in effect in the lease terms and conditions. Alternative D is consistent with the Forest Plan assuming that the effects would be consistent with Forest Plan direction, and the perennial streams in Box Canyon and the East Fork of Box Canyon and escarpment areas are designated as specifically approved locations for subsidence (FEIS, page 2-16). This alternative encompasses the entire Project Area (FEIS, Figure 2-2).

About 76.6 million tons of coal could be recovered under this alternative (FEIS, Table 3.26).

## V. SUMMARY OF PUBLIC INVOLVEMENT

Public scoping for the Pines Tract Project began on October 16, 1997. A Notice of Intent (NOI) to prepare an environmental impact statement (EIS), initiating the formal 30-day scoping period, was published in the *Federal Register* on January 29, 1998. Scoping letters were sent to parties on the project mailing list on February 3, 1998. Legal Notice of the project was published in the MLS's newspaper of record, *Sun Advocate*, on February 5, 1998. Legal Notice of the project was also published in supplemental papers (*Emery County Progress*, February 10, 1998; *Richfield Reaper*, February 11, 1998). A revised NOI, further describing the project, was published in the *Federal Register* on April 14, 1998. Two verbal comments and sixteen written comment letters were received in response to these efforts. These comments have been considered and incorporated into the planning process as documented in the Draft Environmental Impact Statement (DEIS) (i.e. identification of issues, alternative development, disclosure of effects). Discussion on public involvement are included in Sections 2.1 and Chapter 4 of the FEIS.

The notice of availability of the DEIS was published in the *Federal Register* on September 25, 1998. Thirteen comment letters were received. The FEIS Appendix E presents all comment letters received and agency responses.

## VI. DECISIONS

I have decided to select a combination of Alternatives C and D as further detailed in this section. The components of Alternative C which I am selecting are the provisions that protect perennial streams from mining that would cause subsidence. I am selecting the portion of Alternative D that will allow mining that would cause subsidence to occur under certain escarpments in the Project Area. This decision required careful consideration and balance of environmental protection and coal resource recovery.

I recognize that this decision will not satisfy the needs of all interested parties. Given the Forest Service mission of being stewards of the soil, air and water resources, it is incumbent upon me to adhere to the direction given by national policy, agency mission and Forest Plan guidance when making my decisions. I believe that this decision best balances the need to preserve and protect the integrity of the perennial stream watersheds and associated

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ecosystems present while recovering the mineral resources. My decisions would result in the recovery of at least 62.4 million tons of coal.

The basic premise of Alternative C is to protect perennial drainages and escarpments in the Project Area from subsidence. However, my decision includes allowing subsidence of most escarpments in the Project Area because analysis presented in the FEIS shows that risks to escarpments are low (FEIS, pages 3-22 to 23, 3-195 to 196). Figure 1 shows the areas identified for protection.

Specifics of my decisions are detailed below.

- A. I consent to the BLM leasing the Pines Coal Lease Tract. My consent is conditioned on inclusion of stipulations derived in part from the Forest Plan, as detailed in Appendix D of the FEIS, and upon ensuring that subsequent mining will meet the performance standards of the applicable mining regulations. Specific terms and conditions of my consent are given in items 1 and 2 below.
  1. For the perennial streams in Box Canyon and the East Fork of Box Canyon, Alternative C is the selected alternative. Stipulation 9 from the Forest Plan will be implemented, thus these streams will be protected from mining that would cause subsidence. However, I do consent to full-support mining under perennial and perennially-functioning stream reaches where the separation (overburden thickness) between the stream elevation and the elevation of mining is more than 600 feet.

I do not consent to any mining, other than for development entries, where the overburden is less than 600 feet. This is based on guidance given by the Society of Mining Engineers (1992) which recommends maintaining a "60 times the mining height" separation between mine workings and surface water bodies (project file). Given the expected extraction heights in the Project Area this would be about 600 feet.

Specific stream reaches to be protected from subsidence include: i) Box Canyon and perennial portions of it's branches in the Permit Amendment Area, and ii) the East Fork of Box Canyon, including the southwest fork up to and including Joes Mill Ponds. The stream reaches under which no mining will be allowed due to shallow overburden are the lower portions of the East Fork of Box Canyon including the confluence area with the Main Fork of Box Canyon. Refer to Figure 1 of this ROD for areas to be protected.

2. For most escarpments in the Project Area, Alternative D is the selected alternative which allows subsidence. However, the following escarpment areas will be protected from mining that would cause subsidence:
  - a. The escarpment area known as the "grotto" (natural pond/alcove) at the head of Box Canyon in the Main Fork (see FEIS, Figure 3-4) will be protected from mining that would cause subsidence.
  - b. The escarpment area forming the Elusive Peacock rock shelter, along the East Fork of Box Canyon, identified as being near the location of spring 214 (see FEIS, Figure 3-4) will be protected from mining that would cause subsidence.
  - c. Subsidence of other areas containing rockshelters and/or other significant National Register eligible or potentially eligible sites will be contingent upon completion of a three-party agreement between the Utah State Historic Preservation Office (USHPO), Advisory Council on Historic Preservation and MLS specifying data recovery and mitigation plans. The MLS, USHPO and the Advisory Council on Historic Preservation have concurred previously that subsidence effects to these sites can be mitigated through implementation of a three-party agreement for data recovery and mitigation prior to mine plan approval (USHPO and Advisory Council letters dated August 24, 1998 and September 22, 1998, respectively).

- d. I do not have the authority to allow subsidence that may result in the "taking" of an active or inactive raptor nest. Therefore, subsidence of escarpments which contain active and inactive raptor nests will be allowed contingent upon the successful lessee consulting with the US Fish and Wildlife Service and obtaining a "take permit" from that agency.
- B. I consent to the BLM modifying the Quitchupah Lease by adding 150-acres. The existing stipulations on that lease will apply to the modification area.
- C. I do not consent to the Utah Division of Oil, Gas and Mining (UDOGM) approving the Permit Amendment Package to subside Box Canyon. I am choosing not to exercise the provision in Stipulation 13 on the existing Quitchupah Lease (stipulation 9 from the Forest Plan) that would authorize subsidence of the perennial stream in Box Canyon.

### VII. RATIONALE FOR THE DECISION

My decisions are based upon several criteria, some of which are summarized in this section.

#### A. Consistency With Forest Plan Goals, Objectives, And Standards

I evaluated each alternative analyzed and compared them to Forest Plan goals, objectives, standards, and guidelines for the Project Area. Several considerations pertaining to Forest Plan consistency are reflected in my decision and are detailed below. My decision is consistent with the Forest Plan.

Consistency with Multiple Use Management Unit Direction. Multiple use management units and direction designated in the Forest Plan for the Project Area (Forest Plan, pages III-64 to III-76) include timber, range, leasable mineral development, general big game winter range and riparian maintenance (FEIS, page 3-1 and 2).

The timber unit emphasizes wood-fiber production and harvest, allowing other uses so long as the use or rehabilitation returns the area to a condition that is in harmony with the timber emphasis. No timber activities are foreseen for the Project Area (FEIS, Appendix B).

The range unit emphasizes the production of forage and cover for wildlife and livestock, with specific direction for minerals activities to assure continued access and use, and replace losses through appropriate mitigations. The application of the SCLS in Alternatives C and D require replacement of water at the source (SCLS 17, FEIS, Appendix D) that would mitigate any loss of water from stock ponds that might occur (FEIS, page 3-185). Additional mitigations for access would also be required (FEIS, page 3-190 to 191).

The leasable mineral unit emphasizes development of the mineral resources while allowing other resource uses. The Project Area is part of the Quitchupah Pines Coal Multiple Use Evaluation Area, and the Forest Plan makes it available for further consideration for coal leasing (Forest Plan, page Appendix C, page C-9, no. 6, and FEIS, page 1-2). This NEPA analysis was performed to further consider it.

The general big game winter range unit emphasizes maintaining areas that wildlife traditionally use in winter. Other uses may occur so long as they do not cause unacceptable stress on wildlife. The analysis showed minimal impacts to big game winter range (FEIS, page 3-114).

The riparian unit emphasizes management of riparian area and their component ecosystems. The goals of management are, in part, to maintain water flows to provide free and unbound water within the soil needed to create the distinctive vegetation community, provide healthy self-perpetuating plant communities and provide habitats for viable populations of wildlife and fish. With specific regard to mineral management activities, the Forest Plan calls to, "avoid and mitigate detrimental disturbance to the riparian area . . . and, where possible, to

## Pines Tract Project Record of Decision

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locate mineral activities outside the riparian unit . . ." The bulk of riparian habitat is associated with the stream corridors in the Project Area (FEIS, page 3-62, 3-96 and Figure 3-11) that provide habitat for a variety of species during their life cycle (FEIS, pages 3-107 to 3-112). My decision to not allow subsidence the perennial streams and associated riparian habitat responds to the direction for riparian unit management.

Application of Special Coal Lease Stipulations. The Forest Plan also requires the application of the Special Coal Lease Stipulations designated in Appendix B of the Forest Plan to coal leases as necessary to minimize impacts to non-coal resources (FEIS, Appendix D). Both Alternatives C and D include these stipulations, therefore the selection of a combination of Alternatives C and D is consistent with Forest Plan direction.

Alternatives C and D contain Stipulation 9 that states in part, "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; . . . [a]nd 3) damage or alter the flow of perennial streams." However, Alternative D carries the provision for authorizing subsidence in specific areas of the Pines Coal Lease Tract.

Should subsidence of perennial streams be authorized, there is a high potential for subsidence-induced cracking, both of a temporary and of a more permanent nature, to occur in the stream channels. The stream channels flow across exposed bedrock that is highly susceptible to this cracking (FEIS, page 3-63 and sections 3.1, 3.2 and 3.3). Potential outcomes of cracking include diversion of some or all flow in the streams and dewatering of alluvial and colluvial deposits (FEIS, pages 3-47, 3-70 to 79). Flow diversion or dewatering may stress the health of riparian vegetation, which in turn translates to a reduction in the function and value of riparian habitat (FEIS, pages 3-99 to 104, and 3-113 to 3-119). Duration of these effects and the time for self-healing has been estimated at up to 2 years (FEIS, pages 3-70, 3-75, 3-101, and 3-113) assuming that normal natural conditions persist, but may be longer based on season, climate cycle and crack morphology (FEIS, page 3-48, pages 3-70 to 71, Appendix E, Response to comment J-11). These estimations are theoretically based on professional opinions, and there remains some disagreement between the resource specialists of the MLS, BLM and third party contractor regarding the effects and their duration. Attempts to seal subsidence cracks at Rock Pond and associated ephemeral drainage have been marginally successful (FEIS, page 3-19). Given this information, it would be irresponsible of me to allow jeopardizing the integrity of the perennial streams, and knowingly allow damage to these resources to occur,

The analysis shows that there is minimal risk to escarpments (FEIS, page 3-22 to 3-23), associated vegetation (FEIS, 3-101) and wildlife habitat (FEIS, page 3-114), visual quality (FEIS, 3-195), pose minimal risk to human safety (FEIS page 3-178). Therefore, I believe the risk associated with escarpment failure is low.

My selection of a combination of Alternatives C and D protecting the perennial streams and their associated riparian zones and habitat in the Project Area from damage due to subsidence is consistent with, and supported by direction of the Forest Plan. Further, my decision to exercise the provision of Stipulation 9 and authorize escarpment failure at specifically approved locations is also supported by the Forest Plan.

### B. Relationship To Purpose And Need

My decisions respond to the need to consider leasing additional Federal coal lands (FEIS, page 1-2), and to the need to allow coal resource development. My decisions also determine the conditions under which coal resources may be recovered in order to protect non-coal resources. My decisions also respond to the need for the applicant (Canyon Fuel Company, LLC) to access additional reserves to extend mine life, remain competitive in the current coal market and maintain their current contracts.

### C. Relationship To Issues And Public Comments

I selected a combination of Alternatives C and D because I feel that it best balances coal recovery with protection of National Forest resources and resource uses consistent with the applicable laws, regulations, Forest Service policy, and Forest Plan goals and objectives; standards and guidelines; and multiple-use decisions. Even though my decisions do not allow mining that would cause subsidence of perennial stream and some escarpment areas,

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they do not preclude the opportunity to mine using full-support mining methods or access to adjacent coal reserves for mining by some accepted mining method.

The following discussions explain how I considered the FEIS issues in making my decisions. The discussions are presented by resource categories rather than by individual issue, but each issue is addressed. A list of the issues by resource category is found on pages XVIII to XXIV of the FEIS Executive Summary and pages 2-2 to 2-8 of the FEIS.

**Geology, Topography and Subsidence:** An inventory of geologic features in the Project Area was completed. No natural bridges or arches were found, but the Project Area contains extensive escarpments and alcoves. Perennial drainages have carved deep canyons through the massive Castlegate Sandstone forming the canyon walls or escarpments. Several alcoves occur in these canyon/escarpment areas.

My decisions will allow subsidence of escarpments and geologic structures with exceptions as described in Section VI of this ROD. My decisions allow subsidence of escarpments and mining-induced failures of escarpments in most areas, but protects escarpments from subsidence where I have determined that there are resources that I am not willing to put at risk regarding mining-induced damage. By protecting these identified areas and structures from potential mining-induced damage, I believe that I am preserving the most important and unique sites that characterize the geology of the area.

**Groundwater and Surface Water Resources:** The key water resources in the Project Area, seeps, springs occur within the canyons shared by the perennial streams (see Section II). My decisions involve protecting the water resources from potential impacts of subsidence. I believe that I have taken the reasonable approach to maintaining the availability and function of these key water resources for maintaining the ecosystem and supporting downstream uses.

**Vegetation and Special Status Species:** The overall lowering of the land surface due to subsidence would not affect the overall health and distribution of the terrestrial plant communities present (FEIS, page 3-99). However, diversion of water could affect riparian vegetation. Since most of the riparian vegetation is associated with the stream corridors (see Section II), my decision to protect the perennial drainages also protects the viability of the riparian communities.

By protecting the grotto site from subsidence, one known population of Link Canyon columbine in the Project Area will be protected (see Section II and VI, item 2 (a)).

**Wildlife and Special Status Species:** The primary concerns for wildlife include potential reduction of habitat resulting from water diversion. I believe my decision minimizes the risk for reducing habitat by maintaining the key water resources. It also ensures that live water sources will be available to support wildlife. Although effects to special status species are expected to be minimal, my decision further limits the potential for impacts. Again, the key concern is reduction of water availability and translated effects to habitat. Since the risk for losing habitat to escarpment failures is low (see Section VII, A), I am confident that my decision to allow some escarpments to be subsided will not adversely affect wildlife habitat.

**Cultural/Paleontological Resources:** Cultural resource inventories have been completed in the Project Area. Thirty four sites have been identified, 16 of which were considered ineligible and 10 were considered eligible for listing in the National Register of Historic Places. The remaining eight sites are unevaluated (FEIS, Table 3.7). Of the unevaluated and National Register-eligible sites, the National Register character of 10 sites could be affected by subsidence. The FEIS outlines site-specific measures that would be enacted to monitor/mitigate these impacts (FEIS, Table 3.11). The MLS, USHPO and Advisory Council have concurred that these measures could be implemented through an agreement among the USHPO, Advisory Council and MLS thereby protecting and/or mitigating any adverse effects to the National Register values of these sites (USHPO and Advisory Council letters dated August 24, 1998 and September 22, 1998, respectively). My selected alternative identifies specific escarpment areas that contain significant cultural resource sites that will be protected. This protection ensures the preservation for future research and knowledge base. Other sites

which could be damaged from subsidence will be recovered in conformance with all applicable laws and requirements.

**Land Use/Recreation:** Implementation of my decisions will have minimal impacts to existing land uses and existing recreation activities (FEIS, 3-177 to 178). My decisions are in concert with these findings. Pre-mining and post-mining land uses would remain the same.

**Range:** Inventories of the range improvements and range conditions were evaluated as part of this analysis. The primary range concerns are for the availability of water to support livestock and wildlife and maintaining access to the allotment. My decisions protect live water sources, and provide stipulations for replacement of water supplies if they are damaged due to mining activities (FEIS, Appendix D, stipulation 17). Maintaining access will also be required as a mitigation (FEIS, page 3-191). I believe that my decisions address the needs for keeping the range resources intact.

**Visual Resources/Noise/Air Quality:** Subsided and failed escarpments will appear natural and similar to the surrounding undisturbed environment (FEIS, page 3-196). I am confident that my decisions will not alter the visual quality of the Project Area. Impacts from noise from my decisions are expected to be minimal (FEIS, page 3-205). Affects to regional air quality from my decisions are estimated to be minimal (FEIS, page 3-223).

**Transportation:** Transportation needs and effects vary between all the alternatives based on coal production (FEIS, pages 3-236 to 3-241). My decisions are a middle ground between the highest level of transportation and the least. My decisions will provide continued access to the Project Area.

**Socioeconomics and Coal Recoverability:** I considered the economic effects when making my decisions, and I believe my decisions balance the need for environmental protection with recovery of the coal resource. That is why I am consenting to full-support mining under the streams to allow for some recovery of the coal and ensure access to other reserves, rather than rendering these completely unrecoverable. I am also consenting to subsidence of escarpments as described in Section VI of this ROD, which allows for coal recovery in those areas. It is estimated that my decisions would decrease the total recoverable reserves within the Project Area by about 14 million tons, or 18% of the total estimated recoverable reserve base of 76.6 million tons (FEIS, Table 3.26), given the conceptual longwall mining scenario. Since my decisions do not preclude full-support mining under the areas to be protected from subsidence and provides access to adjacent coal reserves for room-and-pillar or longwall mining, I believe my decisions reasonably allow for additional recovery of reserves.

### F. Comparison of Alternatives

I also considered the differences between alternatives in making my decisions. Some of the pressing considerations between the alternatives and my decisions are summarized below.

**Alternative A:** This No Action alternative does not allow for additional leasing of coal lands in the Project Area, or make currently permitted lands with perennial streams available for full-extraction mining. The current mining operation would continue until the existing reserves were exhausted. This alternative would make about 76 million tons of coal unmineable at this time, equating to about \$1.5 billion worth of coal that would be foregone or reserved for future development.

**Alternative B:** Alternative B is not consistent with the Forest Plan because it does not include application of the SCLS for the protection of non-coal resources as required. Further, Alternative B only addresses the currently "unleased" lands, not the entire Project Area. For these reasons I have eliminated it from serious consideration for selection.

**Alternative C:** Alternative C is environmentally preferred because it best fulfills the six goals of NEPA, affords the best protection for water resources and associated riparian vegetation and habitat, and best meets the Forest Plan direction, agency policy and mandates of governing laws. This alternative provides protection for the key water sources in the area, although some effects to water sources at ponds and springs

may occur, lease stipulations will require water replacement if needed. I have selected that portion of Alternative C which protects perennial water resources from subsidence, but allows for full support mining.

The portions of the streams to be protected from subsidence are shown on Figure 1. In the DEIS, the upper portions of the East Fork of Box Canyon were considered perennially functioning (DEIS, pages xxxv and 3-61). Additional information submitted after the DEIS was released show that flow was observed close to the Joes Mill Ponds (Ayres and Associates, 1998). Joes Mill Ponds are the most reliable water sources for wildlife and livestock in the Project Area (FEIS, page 3-182).

Recovery of at least 82% of the recoverable coal resource is possible under this alternative. By allowing full support mining, the coal reserves under the streams will still be accessible and access to adjacent reserves that can be mined using full-extraction methods will be possible. This allows for both stream protection and some recovery of the coal reserves.

**Alternative D:** Alternative D affords maximum recovery of the coal resource. Some aspects of Alternative D are not consistent with the Forest Plan. Potential impacts to key water resources and associated ecosystems could occur contrary to the Forest Plan. Lease stipulations will also require water replacement if needed. Alternative D allows for subsiding escarpments which the analysis shows will have minimal impacts. Therefore, I have selected that portion of Alternative D which allows subsidence of most escarpment areas.

My rationale for protecting some of the escarpment areas described in Section VI. The area at the head of the Main fork of Box Canyon, known as the "grotto", is the only natural pond in the Project Area, and is a perennial source of water (see discussion in the FEIS, page 3-66 and Figure 3-8). This area supports one of the three known populations of the Link Canyon columbine (page 3-133). The rationale for protecting the Elusive Peacock rock shelter centers on the shelter being eligible for the National Register of Historic places, and considered a significant site due to its potential research value. Existing data suggests that the site contains the potential to add important information to understanding how aboriginal peoples adapted their subsistence and technology to the mountains of Utah (project file). In-situ preservation of this site would assist future research efforts. Further, an unconfirmed population of the Link Canyon columbine has been noted at this site (project file). Assuming the mine plan in the Reasonably Foreseeable development Scenario, the situation of this site in proximity to reaches of perennial stream to be protected indicate that no additional coal would be lost by not allowing it to be subsided.

My decisions (a combination of Alternatives C and D) consider where I believe it is, or is not, appropriate to take risks with the surface resources, and recognize the need for recovery of the subsurface coal resource. The decision to protect the identified perennial stream reaches reflects the importance of perennial flow and the associated riparian zones for maintaining properly functioning ecosystems and my associated low risk threshold for these areas. In addition, I believe that the risk is relatively unknown due to the theoretical nature of predictions and some disagreement among scientists. My decision to allow most of the escarpments to subside reflects where I believe the anticipated affects and risks and effects would be minimal, and acceptable. The combination of alternatives C and D also allows for recovery of the coal with less economic loss than with Alternative C alone.

### E. Relationship To The Organic Administration Act Of 1897

This act established the original purposes of National Forests as follows: "No national forest shall be established, except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions, or of the Act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes". (16 U.S.C. 475)

In making my decisions, I have additionally considered why the MLS was created. The Manti Forest Reserve, which encompasses the Project Area, was designated in 1903 under authority of the Organic Administration Act as the result of local petition for protection of the area from land practices that were causing severe damage to

## Pines Tract Project Record of Decision

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watershed conditions and public health and safety concerns. Considering the purposes for which the Manti Forest Reserve was established and the history regarding its establishment, I feel that it would be irresponsible of me to make any decisions that could compromise the existing favorable conditions of water flow (risk damage to perennial streams and associated ecosystems) within or adjacent to the Project Area. I feel that my decisions provide for reasonable and economic coal recovery while maintaining resource conditions as required under this act.

### F. Relationship To The Forest Service Natural Resource Agenda

Additionally, when making my decisions, I considered the Forest Service's recent "natural resource agenda" (USDA-FS, 1998). The agenda states that the first priority of the Forest Service is to maintain and restore the health of ecosystems and watersheds. The agenda also gives watershed protection and ecological restoration the highest priority in the decisionmaking process. My decision to protect the perennial stream watersheds and the riparian ecosystems in the Project Area is in concert with the tenets of the natural resource agenda. I consider it my responsibility to ensure that the agenda is adhered to on lands within the MLS.

## VIII. FINDINGS REQUIRED BY LAW, REGULATION, AND AGENCY POLICY

Numerous laws, regulations, and agency directives require that my decisions be consistent with their provisions. I have determined that my decisions are consistent with all laws, regulations, and agency policy; some of which I have summarized in the following.

**A. National Forest Management Act (16 USC 1600 et seq.):** The Manti-La Sal National Forest Land and Resource Management Plan (Forest Plan) was approved November 5, 1986, as required by this Act. The Forest Plan provides direction and guidance for all resource management activities on the Forest. This management direction is achieved through the establishment of Forest goals and objectives, standards and guidelines, and Management Unit direction. Project implementation consistent with this direction is the process by which we move toward the desired condition described by the Forest Plan. Forest Plan direction provides the sideboards for project planning. The FEIS displays the Forest Plan and Management Unit goals and objectives and the standards and guidelines applicable to the Pines Project Area (FEIS, pages 1-2 and 3, and 3-1 and 2). The alternative development process and the management goals of the alternatives are described in the FEIS, Chapter 2, while the environmental consequences of the alternatives are displayed in the FEIS, Chapter 3. My decisions are consistent with Forest Plan direction.

**B. Federal Land Policy and Management Act of 1976:** This Act allows the granting of land use permits on National Forest System lands. The regulations at Code of Federal Regulations Title 36 part 251 (36 CFR 251) guide the issuance of permits under this act. Land use permits are granted on National Forest System lands when the need for such is consistent with planned uses. My decisions are consistent with this Act.

**C. National Environmental Policy Act of 1969 (NEPA)** The analysis in support of my decisions was performed under the authorization and regulations set forth in NEPA. Due NEPA process was followed including public scoping, identification of issues, development of alternatives, disclosure of environmental consequences, and public comment. The entirety of documentation for this project supports compliance with this Act.

**D. Mineral Leasing Act of 1920, as Amended by Federal Coal Leasing Amendments Act of 1975:** The proposed leasing actions of the proposed action were processed and analyzed in accordance with the Mineral Leasing Act 1920, as amended by the Federal Coal Leasing Amendments act of 1975 and other acts. The Mineral Leasing Act authorizes BLM to process, issue, and administer coal leases in accordance with other appropriate laws, regulations and authorities. It requires consent of the surface management agency for leasing and provides for the surface management agency to require such conditions as it may prescribe with respect to the use and protection of the non-mineral interests in those lands. In regard to the proposed actions, the Forest Service is the surface management agency. My decisions are consistent with these authorities.

**E. Surface Mining Control and Reclamation Act of 1977 (SMCRA):** The proposed PAP amendment was processed and evaluated in accordance with SMCRA and the subsequent Federal Regulations and approved Utah

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Coal Rules. In combination, they authorize UDOGM to approve minor PAP amendments on Federal lands if determined to be consistent with performance standards. They also authorize UDOGM to administer/enforce approved coal mining operations on Federal lands with prior consent/concurrence of the surface management agency and conditions prescribed by the surface management agency for the protection of non-mineral interests. The proposed actions lie on National Forest System lands with Federal coal reserves. The Forest Service is the surface management agency. My decisions are consistent with these authorities.

**F. Unsuitability Criteria for Coal Development:** Federal regulations in 43 CFR 3461 state that 20 "unsuitability criteria" must be used to determine the suitability of lands for coal leasing. The Forest Plan applied the criteria to all lands containing mineable coal on the MLS, but required that site-specific application be done on a project by project basis. The unsuitability criteria were applied to the unleased lands in the Project Area, and documentation is contained in the project file. The findings were as follows: Criteria 1, 2, 3, 6, 12, 16 were found to be not applicable because the criteria do not exist in the Project Area. Criteria 4, 5, 8, 14, 17, 18, 19 and 20 were addressed in the Forest Plan as not applicable because these lands do not exist on the MLS (Forest Plan, Table C-2). Exceptions apply to criteria 7, 9, 10, 11, 13 and 15. Detailed information pertaining to special status species was covered in a Biological Assessment/Biological Evaluation (project file). My decisions are consistent with application of the unsuitability criteria.

**G. The Endangered Species Act (16 USC 1531 et. seq.):** In accordance with Section 7 (c) of the Endangered Species Act, as amended, a list of the listed and proposed threatened or endangered species which may be present in the Pines Project Area was requested from the US Fish and Wildlife Service (USFWS). The information provided indicated that bald eagle and peregrine falcon are transient species within the area. It was also identified that suitable habitat for the southwest willow flycatcher is present in the Project Area. Any water withdrawals from this project will be minor, and will be in concert with the Forestwide Consultation in place for these species.

As required by the Act, Biological Assessments were prepared addressing the potential impacts to these species. The analyses concluded that this project would have no effect on the bald eagle or peregrine falcon, and is not likely to adversely affect the southwestern willow flycatcher or the Colorado River fish species. This assessment has been reviewed by the USFWS who has issued written concurrence with the findings on October 5, 1998.

**H. Forest Service Manual 2607.32 - Sensitive Species:** The potential effects of my decisions on sensitive species (Link Canyon columbine, spotted bat, Northern goshawk, flammulated owl, and three-toed woodpecker) have been analyzed and documented in Section 3.7 of the FEIS and the Biological Evaluation in the project file. Individuals or habitat may be affected, but there will be no trend towards Federal listing or loss of viability of any of the sensitive species due to my decisions.

**I. National Historic Preservation Act:** USHPO has concurred with our findings of this analysis in a letter dated September 22, 1998. The Forest Service consulted with the Navajo, Pueblo of the Zuni, the Hopi, the Paiute of Utah and the Ute Tribes. The purpose of this consultation has been to identify tribal concerns with the project and to identify any sites that tribes may ascribe traditional cultural values to. The Ute Tribe expressed concerns with sites containing rock art (total of two sites) and one site tentatively described as a game kill site. These concerns have been taken into account in my decisions.

**J. Secretary of Agriculture Memorandum, 1827:** My decisions are in conformance for prime farmland, rangeland and forestland.

**K. Clean Water Act:** The Clean Water Act (CWA) requires each State to implement its own water quality standards. The State of Utah's Water Quality Antidegradation Policy requires maintenance of water quality to protect existing instream Beneficial Uses on streams designated as Category I High Quality Waters. All surface waters within the Project Area are designated as High Quality (Category I). This means they will be maintained at existing high quality. The State of Utah and the Forest Service have agreed through a 1993 Memorandum of Understanding to use Forest Plan direction and soil and water conservation practices to meet the water quality protection elements of the Utah Nonpoint Source Management Plan. The Beneficial Uses and High Quality of

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water in the Project Area would be maintained during and following the project through the performance standards, analogous to soil and water conservation practices, required by SMCRA.

**L. Executive Order 119900 of May, 1977:** This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that an analysis be completed to determine whether adverse impacts would result. The locations of wetlands in the Project Area were identified and shown in Figure 3-11 of the FEIS. My decisions specifically address potential impacts to wetlands by protecting water sources that may be at risk due to subsidence. Additionally, the project through the performance standards, analogous to soil and water conservation practices, required by SMCRA will assure compliance with this Executive Order.

**M. Executive Order 11988 of May, 1977:** This order requires the Forest Service to provide leadership and to take action to (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risks of flood loss, (2) minimize impacts of floods on human safety, health, and welfare, and (3) restore and preserve the natural and beneficial values served by floodplains. In compliance with this order, Forest Service direction requires that an analysis be completed to determine the significance of potential impacts to floodplains. No floodplains were identified in the Project Area (FEIS, page 3-62).

**N. Civil Rights:** Based on comments received during scoping and the comment period for the DEIS, no conflicts have been identified with other Federal, State, or local agencies, tribal governments, minorities, women, or civil rights of any United States Citizen that would result from my decisions.

**O. Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations.":** Based on comments received during scoping and the comment period for the DEIS, no adverse environmental or human health effects on minority or low income populations have been identified that would result from my decisions (FEIS, page 3-246).

### IX. APPEAL PROVISIONS AND IMPLEMENTATION

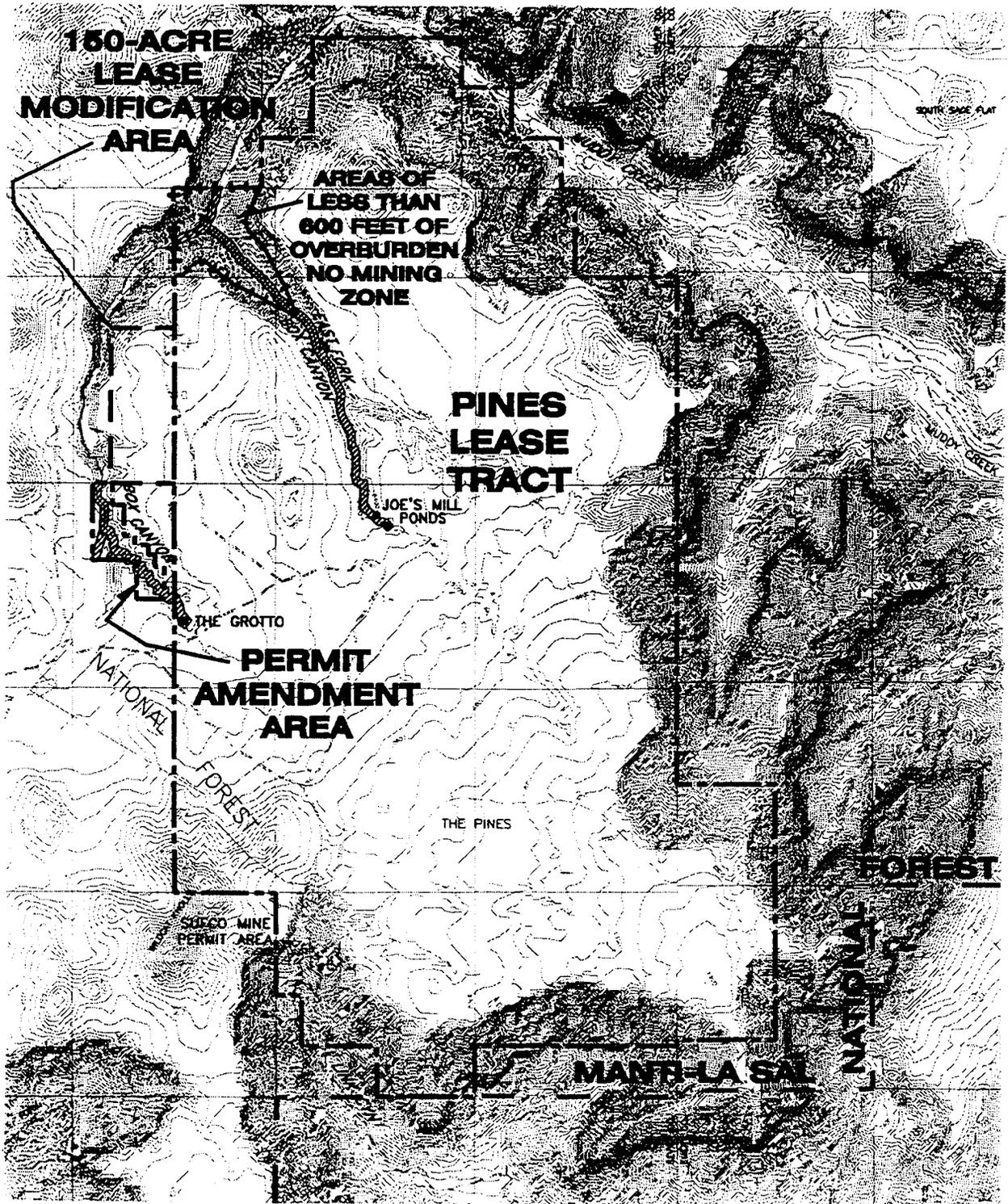
Detailed records of the environmental analysis are available for public review at the Manti-La Sal National Forest Supervisor's Office, 599 West Price River Drive, Price, Utah, 84501. For further information on my decisions, contact Liane Mattson, Team Leader, or Carter Reed, Forest Geologist, at the Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501 (telephone number 435-637-2817).

#### Code of Federal Regulations Title 36 Part 215 (36 CFR 215)

My decisions are subject to appeal pursuant to 36 CFR 215.7. As stated in 36 CFR 215.11, an appeal may be filed by any person or non-Federal organization (Federal agencies may not appeal) that has submitted written comment in response to the DEIS. A written appeal must be submitted within 45 days after the date of the notice of this decision is published in the *Sun Advocate*, Price, Utah. Appeals must be submitted to:

Regional Forester  
USDA Forest Service, Intermountain Region  
ATTN: Appeals Deciding Officer  
324 25th Street  
Ogden, Utah 84401

Appeals must meet the content requirements of 36 CFR 215.14. If no appeal is received, implementation of my decisions may occur on, but not before, five business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.



**EXPLANATION**

-  STREAM-PERENNIAL
-  NO SUBSIDENCE ZONES
-  NO MINING ZONE  
LESS THAN 600 FEET  
OVERBURDEN

4000 0 4000 FEET

CONTOUR INTERVAL 25 FEET

**MANTI-LA SAL NATIONAL FOREST  
PINES TRACT PROJECT**

FIGURE 1  
RECORD OF DECISION

SCALE 1" = 4000'

DATE  
DRAWN

8/14/98

LAST  
REVISION

1/21/99

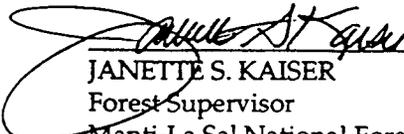
Code of Federal Regulations Title 36 Part 251 (36 CFR 251)

My decisions are alternately subject to appeal under 36 CFR 251 by signatories or holders of written authorizations to occupy and use National Forest System lands affected by these decisions and other signatories or holders who have responded to our notices of this project. A written appeal must be submitted within 45 days after the date of the notice of this decision is published in the Sun Advocate Price, Utah. Appeals must be simultaneously submitted to:

Regional Forester  
USDA Forest Service, Intermountain Region  
ATTN: Reviewing Officer  
324 25th Street  
Ogden, Utah 84401

Forest Supervisor  
Manti-La Sal National Forest  
599 West Price River Drive  
Price, Utah 85401

Appeals must meet the requirements of 36 CFR 251.90. Under 36 CFR 251.91, these decisions may be implemented during an appeal unless the Reviewing Officer grants a requested stay.

  
\_\_\_\_\_  
JANETTE S. KAISER  
Forest Supervisor  
Manti-La Sal National Forest

1-25-99  
\_\_\_\_\_  
Date

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SME, 1992. *Mining Engineers Handbook*, Chapter 10.6, "Mine Subsidence."

Ayres and Associates, 1998. *Technical Review and Comments on Hydrologic Issues of Box Canyon and East Fork Box Canyon Creeks*. Prepared for Canyon Fuel Company, Salina, Utah.