

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

January 4, 2005

TO: Internal File

THRU: Peter H. Hess, Environmental Scientist III/Engineering, Team Lead

FROM: Jerriann Ernstsens, Ph.D., Environmental Scientist II/Biology

RE: 2004 Midterm Review, Canyon Fuel Company, LLC, SUFCO Mine, C/041/002, Task ID #2068

SUMMARY:

The Division is required to review each active permit during its term in accordance with R645-303-211. The Division is currently conducting the Midterm Review for the SUFCO Mine. One of the pertinent elements chosen for this current review focuses on the following:

- A review to ensure the Plan reflects changes in the Utah Coal Regulatory Program – specifically compliance with the U. S. Fish and Wildlife Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin.
- Compile a list of biology-related stipulations, conditions, or agreements.

TECHNICAL ANALYSIS:

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

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Wetlands and Habitats of Unusually High Value for Fish and Wildlife

Adverse result of mining on water quantity to the Colorado River drainages affects four Colorado River endangered fish species (Colorado pikeminnow [squawfish], humpback chub, bonytail chub, and razorback sucker). The USFWS considers depletions or significant changes to contributions to the Colorado River drainage as a potential jeopardy to these endangered fish. Water users may have to mitigate if there are considerable changes to contributions or if water consumption is greater than 100 acre-feet per year. Currently, the mitigation fee is approximately \$16.00 per acre-foot of depletion, but may change marginally from year to year.

The Permittee must provide all equations and justifications with supporting documentation leading to the overall sum of water depletions or additions for all mining operations and explorations including dust control in the MRP section R645-301-333. (R645-301-322; -301-333.) The Permittee may use the following paper as a guideline "Windy Gap Process As It Applies To Existing Coal Mines In The Upper Colorado River Basin". In brief, consumption values must at least include the following:

- Mining consumption
- Ventilation consumption
- Coal producing consumption
- Ventilation evaporation
- Sediment pond evaporation
- Springs and seep effects from subsidence
- Alluvial aquifer abstractions into mines
- Alluvial well pumpage
- Deep aquifer pumpage
- Postmining inflow to workings
- Coal moisture loss
- Direct diversions
- Dust suppression (not mentioned in Windy Gap).

The Permittee must resubmit water consumption calculations (1) if original submittal was based on estimates prior to mining. Submit actual values during the midterm review, and (2) if future changes in mining operations significantly change current total estimates. Submit new values with amendment related to change in mining operations.

Findings:

The Division considers information in the application adequate to meet minimum regulations associated with the TA section Fish and Wildlife Information in Operation Plan. Prior to approval, the Permittee must act in accordance with the following:

R645-301-333, Provide all equations and justifications with supporting documentation leading to the overall sum of water depletions or additions for all mining operations and explorations including dust control in the MRP section R645-301-333.

Index of Biology-Related Lease Stipulations or Conditions, and MRP Agreements

Below is an index of lease stipulations or conditions, and MRP biology-related agreements. This index may include the following for each stipulation, condition, or agreement:

Lease stipulations:

Title.

- 1 Overseeing party.
- 2 General objective.
- 3 Frequency of task.
- 4 Status (pending, on going, or completed).
- 5 Required reports.
- 6 Citation.
- 7 Other.

MRP agreements:

Memorandum of Agreement (00-MU-11041000-017).

- 1 Overseeing party: Division, USFS (Lead), SHPO, and Canyon Fuel.
- 2 General objective: Monitoring, assessing effects, reporting, planning treatment strategies of specific known historic properties, such as Big Mac and Little Mac Shelters.
- 3 Frequency of task: Dependent on "Monitoring Schedule", but generally prior to-, during, and post mining.
- 4 Status: On going as of June 16, 2004 Field Visit.
- 5 Required reports: Follow up reports submitted with Annual Reports to the Division. Division provides copy to USFS Manti-La Sal National Forest.
- 6 Citation: MRP page 4-9 through 4-9A.

Division's Biology Monitoring Plan for Mining Under Panels 3Left, 4Left in the East Fork of Box Canyon (initiated September 29, 2003).

- 1 Overseeing party: Division.

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- 2 General objective: Qualitative and quantitative vegetation and geomorphology evaluations along stream channel. Infrared vegetation maps. Macroinvertebrate evaluations.
- 3 Frequency of task: Biyearly to yearly depending on monitoring intent.
- 4 Status: On going through 2008.
- 5 Required reports: Follow up reports submitted with Annual Reports to the Division. Division provides copy to USFS Manti-La Sal National Forest.
- 6 Citation: MRP page 4-9 through 4-9A; 3-44.

Exclusionary Periods.

- 1 Overseeing party: Division and DWR.
- 2 General objective: Protect critical elk winter range and high priority deer winter range.
- 3 Frequency of task: Yearly.
- 4 Status: On going from November 1st through May 15th.
- 5 Required reports: No report required.
- 6 Citation: MRP page 3-42 through 43.

Raptor Monitoring.

- 1 Overseeing party: Division.
- 2 General objective: Monitor areas, within a year of mining that has suitable habitat and mining could affect known or new raptor nests.
- 3 Frequency of task: Yearly helicopter flyovers in May with DWR.
- 4 Status: On going.
- 5 Required reports: Follow up reports submitted with Annual Reports to the Division. Must separately submit maps with nest locations as a Confidential File.
- 6 Citation: MRP page 3-9, 3-42 through 44.
- 7 Other: The Permittee agreed to prevent impact from subsidence (MRP page 3-44) to a falcon nest near a possible breakout along the Muddy. Page 44 discusses many other protection-related specifics.

Link Trail Columbine.

- 1 Overseeing party: Division and USFS.
- 2 General objective: Identify and monitor Link Trail Columbine populations within the Pines Tract IBC.
- 3 Frequency of task: Not specified.
- 4 Status: On going.
- 5 Required reports: Not specified.
- 6 Citation: MRP page 3-21.

RECOMMENDATIONS:

Do not approve the midterm review until the deficiency is addressed.