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United States
Department of
Agriculture

Forest
Service

Manti-La Sal
National Forest

Ferron/Price Ranger District
Ferron Work Center
115 West Canyon Road
P.O. Box 310
Ferron, UT 84523
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RECEIVED

JUN 15 2006

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DIV. OF OIL, GAS & MINING

File Code: 1950-1/2820-4

Date: June 13, 2006

Mary Ann Wright
Associate Director - Mining
Utah Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, UT 84114

INCOMING,
CO110007
cc: PARKER
WAYNE H.

Dear Mary Ann:

I have decided to authorize the Ark Land Company/ SUFCO Mine occupancy of National Forest System lands to conduct the proposed 2-hole truck-mounted drilling project on Utah State Coal Lease ML-49443-OBA by issuing a Special-Use Permit to Ark Land Company subject to the terms and conditions of the permit and provisions of the plan as amended by the attached stipulations (DM, Attachment 2). SITLA has approved the coal exploration project within their coal estate. The proposed project area is located approximately 10 miles northwest of Emery, Utah, in Sevier and Sanpete Counties (Sections 5 and 7, T. 21 S., R. 5 E., SLBM).

This decision is categorically excluded from preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under Forest Service Handbook 1909.15, Chapter 30, Section 31.2(3) "Approval, modification, or continuation of minor special use of National Forest System lands that require less than five contiguous acres of land". This category was determined appropriate because the area affected by this decision is less than 5 acres, there are no extraordinary circumstances related to the project, and surface uses would remain essentially the same.

This decision is subject to appeal by the proponent under Code of Regulations Title 36 CFR 251.82. Notice of appeal must be postmarked or received by the Appeal Reviewing Officer within 45 days of the date of this decision. A notice of appeal, including the reasons for the



appeal, must be filed with the Regional Forester, Intermountain Region, Federal Building, 324 25th Street, Ogden, Utah 84401. A copy of the notice must be filed simultaneously with the Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501. Appeals must meet the content requirements of 36 CFR 251.90.

For additional information concerning this decision, please contact Tom Lloyd (435 636-3596), Ferron/ Price Ranger District, Manti-La Sal National Forest, 115 West Canyon Road, P.O. Box 310, Ferron, Utah 84523.

Sincerely,

Tom Lloyd acting for

MESIA NYMAN
District Ranger

cc: John Blake-SITLA, Steve Rigby-BLM

Attachments: Decision Memo, Map, Terms &
Conditions of Approval

Decision Memo
for
ARK LAND COMPANY
2006 COAL EXPLORATION
SITLA Muddy Coal Tract

USDA Forest Service, Intermountain Region
Manti-La Sal National Forest Ferron-Price Ranger District
Sevier and Sanpete Counties, Utah

I. INTRODUCTION

The Manti-La Sal National Forest has evaluated a proposal submitted by Ark Land Company (a subsidiary of Arch Coal Inc.) on behalf of Canyon Fuel Company, LLC/ SUFCO Mine, to conduct coal exploration and reclamation activities in the summer of 2006. Two holes are proposed using truck-mounted core drilling rigs on the School and Institutional Trust Lands Administration (SITLA) Muddy Coal Tract. (Attachment 1, Map). The two proposed holes (identified as A and B) are a portion of the 2005 coal exploration program; an attempt was made to drill them in 2005 using helicopter-assisted drilling methods. This was not successful because the small drill rigs did not have the torque or pulling power necessary to handle the difficult drilling conditions encountered at both holes. The proposed project area is located approximately 10 miles northwest of Emery, Utah, in Sevier and Sanpete Counties (Sections 5 and 7, T. 21 S., R. 5 E., SLBM).

A staging area would be set up at the junction of National Forest Trail (NFT) 025 and Forest Road (FR) 50044. NFT 025 would be temporarily widened to an approximate width of 12 feet and two temporary spur access roads and 100 x 100 foot drill pads would be constructed. Total surface disturbance would be less than 5 acres as outlined below.

Proposed Surface Disturbance Estimates	
Proposed Construction/ Reconstruction	Acres of Disturbance
NFT 025 reconstruction	2.20
Spur access road to A05	0.71
Drill pad A05	0.23
Spur access road to B05	0.59
Drill pad B05	0.23
Total proposed surface disturbance	3.96

Water needed for drilling operation would be pumped from Muddy Creek through approximately 4 miles of PVC pipe placed temporarily on the ground to drill site sites (Attachment1). Temporary waterlines and pumps would be placed using motorized equipment along established Forest roads; if no roads are present, the waterlines and pumps would be placed and removed using horses or on foot. Water may be pumped from Quitchumpah Creek, if needed. Riparian and wetland areas would be avoided. Temporary Water Change approvals from the Utah Division of Water Rights prior using any water would be required.

Portable containers would be used on-site to hold water for drilling and drilling fluids; mud pits (length = 40 ft., width = 10 ft., depth = 8 feet) would be constructed on each drill site. Mudpits would be lined; the pit contents would be pumped or allowed to dry before the liners are removed and disposed of at an approved disposal area off Forest. Rock cores would be obtained from the Upper and Lower Hiawatha Coal Seam at each drill site and would be logged by an on-site geologist. Unneeded cores and drill cuttings would be buried in the mudpits at a depth greater than 4 feet.

During operations Best Management Practice (BMP's) would be followed. Topsoils would be stockpiled and protected. Subsoils would be protected from potential contamination.

Either drill hole A or B would be completed as a water monitoring well, the other would be plugged upon completion. Future access to the water monitoring well would be by foot and would be plugged in accordance with state and federal laws when no longer needed.

Upon completion of each drill hole, drill sites and access roads would be returned to original contour, topsoil would be replaced, all equipment and trash would be removed from the sites, and the drill sites and access roads would be seeded with a Forest Service-approved seed mix as specified in Attachment 2.

The SITLA coal tract encompasses approximately 2,554 acres. SITLA, the coal estate owner for the lease area, has an outstanding right to occupy USFS administered lands for the purpose of exploring for, and developing its coal estate to achieve maximum economic recovery. Therefore, authorization of surface occupancy is non-discretionary under Federal Regulations 36 CFR 251. However, the District Ranger must issue a special-use permit authorizing surface occupancy of NFS lands and can require mitigations to minimize the effects to other resources in the area. In addition, the operator must obtain an amended Road-Use-Permit from the Forest Supervisor authorizing commercial hauling on NFS Roads with an appropriate bond and stipulations to protect the road surface from degradation.

II. DECISION

I have decided to authorize occupancy of National Forest System (NFS) lands for the coal exploration project in the SITLA Muddy Tract by issuing a Special-Use Permit to Ark Land Company subject to the terms and conditions of the permit and provisions of the plan as amended by the attached stipulations (Attachment 2). SITLA has approved the coal exploration project within their coal estate.

It is my determination that this decision may be categorically excluded from preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under Forest Service Handbook 1909.15, Chapter 30, Section 31.2(3): "Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land." This category was determined appropriate because the area affected by this decision is less than 5 acres, there are no extraordinary circumstances related to the project, and surface uses would remain essentially the same.

The proposals, with stipulations, would provide adequate protection of Forest resources. The proposal is consistent with all Forest Plan requirements. The Forest Plan anticipated the exploration for and development of coal resources and provides programmatic direction and stipulations for the coal program. The Pines Tract EIS evaluated drilling as a related activity.

My decisions will be implemented via transmittal of this Decision Memo to BLM and SITLA with authorization letters and issuance of the Special-Use Permit and Road-Use Permit to Ark Land Company.

III. DECISION RATIONALE

SITLA, the coal estate owner for the Muddy Tract area, has an outstanding right to occupy National Forest System land for the purpose of exploring for and developing its coal estate. Therefore, authorization of surface occupancy is non-discretionary under Federal Regulations 36 CFR 251. However, the District Ranger must issue a special-use permit authorizing surface occupancy of NFS lands and can require mitigations to minimize the effects to other resources in the area.

This decision was made after careful consideration of the proposal, public involvement, and the entirety of the supporting record. No one fact or single piece of information led to the decision. Rather, a combination of factors contributed to it. The key considerations are discussed in the following sub-parts.

Attainment of Agency Goals:

The general purpose and need for this project is to accomplish the following goal of the Forest Plan: "Provide appropriate opportunities for and manage activities related to locating, leasing, development, and production of mineral and energy resources." (Forest Plan, p. III-4). Another related goal of the Forest Plan is: "Manage geologic resources, common variety minerals, ground water, and underground spaces (surficial deposits, bedrocks, structures, and processes) to meet resource needs and minimize adverse effects."

The project-specific purpose and need of the proposed action is to permit Ark Land Company to acquire data on the available coal resources on the SITLA Muddy Coal Tract and to provide access to Federal and non-Federal mineral estates on National Forest System lands with outstanding rights, while protecting non-mineral resources of the National Forest consistent with Forest Service policy and Forest Plan direction.

The decision wholly meets the project's purpose and need.

Absence of Extraordinary Circumstances:

Existing resource conditions and potential extraordinary circumstances have been considered in making the decisions.

Threatened, endangered, and sensitive species or their critical habitat. The project will not affect any Threatened and Endangered Species. During the wildlife surveys conducted

May 24 through 26, 2006, biologists identified possible goshawk habitat within the SITLA tract. No sightings of Northern goshawks or observance of associated nesting activities were observed within 0.5 miles of the proposed action within and adjacent to the SITLA tract. (Project BE/BA, Project File).

Floodplains, wetlands, or municipal watersheds. The project will not affect floodplains, wetlands, or municipal watersheds. There are none in the project area.

Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas. There are no wilderness, wilderness study areas, or National Recreation Areas in the project area.

Inventoried Roadless Areas. None of the drill holes are located within an Inventoried Roadless Area. Approximately 1 mile of 3" plastic pipe would be placed on the ground surface and a water pump will be placed near Muddy Creek in the Muddy Creek-Nelson Mountain IRA. These will be placed and removed by horse and/or by foot. The effects will be negligible in the short term and no existent after 4 months year.

Research Natural Areas. The project area is not located within any Research Natural Areas (RNAs).

Native American religious or cultural sites, archeological sites, or historic properties or areas. Surveys have been completed and professional archaeological staff have determined that the project does not have the potential to affect historic properties. Consultation with Native American groups has disclosed no religious or cultural sites.

Relationship to Public Involvement. Public comments were sought and considered throughout the planning process for this project. One response was received in the form of a letter from the Utah Environmental Congress (UEC). The UEC expressed their belief that the scope of the project excludes it from a categorical exclusion and that an EA is required. A copy of UEC's comment letter and Forest Service responses are included in the project file.

IV. PUBLIC INVOLVEMENT

Legal notices describing the proposal and requesting comments were published in the *Emery County Progress* (Castle Dale, Utah) on March 14, 2006 and in *The Richfield Reaper* (Richfield, Utah) on March 15, 2006. Letters describing the proposal and requesting comments were mailed to 30 interested individuals and agencies on March 8, 2006. One response (from UEC) was received (Project File) and is described in the Decision Rationale section above. Native American consultation was conducted and no specific issues were identified.

V. FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

To the best of my knowledge, the decision complies with all applicable laws and regulations. In the following, the association of the decision to some pertinent legal requirements are summarized.

National Forest Management Act of 1976: The Forest Plan was approved November 5, 1986, as required by this Act. This long-range land and resource management plan provides guidance for all resource management activities in the Forest. The National Forest Management Act requires all projects and activities to be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this project (pp. III 64-66). The decision is be consistent with the Forest Plan. It is consistent with the Standards and Guildlines in the Forest Plan.

National Historic Preservation Act: The area was surveyed for potential historic, archaeological, and paleontological resources. None were found and the potential effects have been determined to be negligible. The negative report was sent to the Utah State Historic Preservation Office (SHPO) for review and concurrence. However, no comment was received from SHPO within the legally mandated 30-day comment period, thus indicating no concern from their office regarding the project. Should any unanticipated cultural or paleontological resources be encountered during the implementation of this project, all work would stop until assessment of the finding could be made. Tribal consultation was done with the Hopi, Ute Mountain Ute, White Mesa Ute, Paiute, Northern Ute, and Navajo tribes; a response was received from the Paiute Tribe, they had no concerns regarding the proposed project. No other Native American religious concerns have been identified.

Endangered Species Act: The Biological Assessment/Biological Evaluation (Project File) has disclosed that this project will not result in impacts to threatened, endangered, or sensitive plant or animal species. Therefore, there is no need to further evaluate threatened, endangered, or sensitive plant or animal species.

National Environmental Policy Act: The entirety of documentation for this project supports that the project analysis complies with this Act.

Environmental Justice: Based on experience with similar projects on the Ferron-Price Ranger District, it is believed that this project would not have any disparate impacts on individual groups of peoples or communities. Implementation of this project will produce no adverse effects on minorities, low-income individuals, Native Americans or women. No civil liberties will be affected.

VI. IMPLEMENTATION DATE AND APPEAL OPPORTUNITY

It is my determination that this decision may be categorically excluded from preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under Forest Service Handbook 1909.15, Chapter 30, Section 31.2(3) "Approval, modification, or continuation of minor special use of National Forest System lands that require less than five contiguous acres of land." This category was determined appropriate because impacts to the area affected by this decision are short-term with minimal ground disturbance on 3.96 acres.

My decision will be implemented by issuance of a Special Use Permit with terms and conditions needed to protect non-mineral resources (Attachment 2) authorizing surface occupancy of National

Forest System lands in the Utah State Coal Lease. A concurrence letter will be sent to Oil Gas and Mining (OGM) with terms and conditions. An amended Road Use Permit will be issued to the Company authorizing use of designated Forest System roads. Implementation of the decision may occur immediately upon my signature of this document and issuance of the required permits.

This decision is subject to appeal pursuant to 36 CFR 251.82. Notice of appeal must be postmarked or received by the Appeal Reviewing Officer within 45 days of the date of this decision. A notice of appeal, including the reasons for appeal, must be filed with the Regional Forester, Intermountain Region, Federal Building, 324 25th Street, Ogden, Utah 84401. A copy of the notices must be filed simultaneously with the Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501. Appeals must meet the content requirements of 36 CFR 251.90.

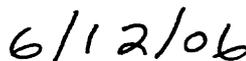
VII. CONTACT PERSON

For additional information concerning this project or the Forest Service decision, please contact Tom Lloyd at the USDA Forest Service, Ferron/ Price Ranger District, Manti-La Sal National Forest, 115 West Canyon Road, PO Box 310, Ferron, UT 84523; Telephone: 435-384-2372.

VIII. SIGNATURE AND DATE



MESIA NYMAN
District Ranger
Ferron/Price Ranger District
Manti-La Sal National Forest

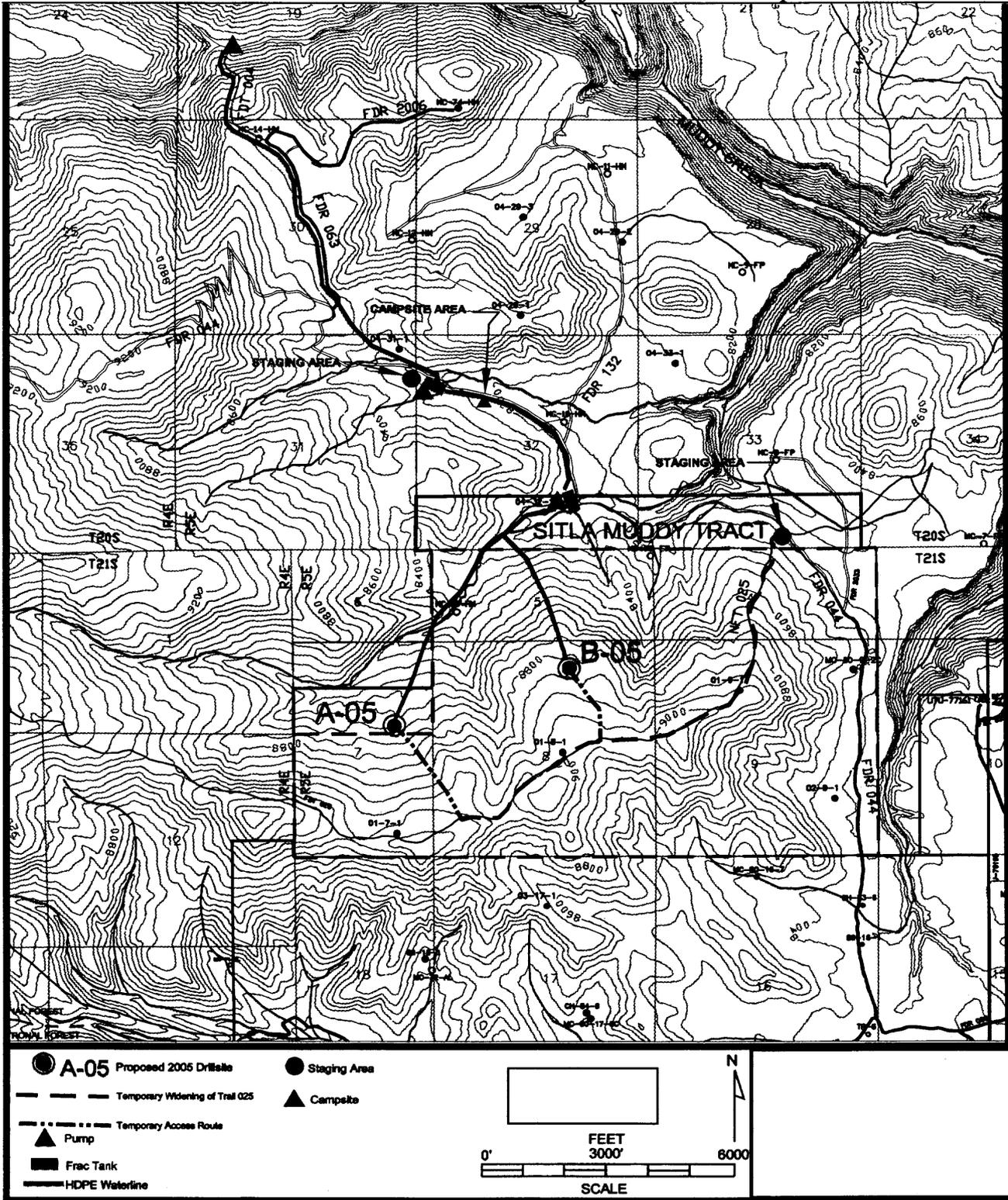


Date

Equal Opportunity Employment Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

Attachment 1: Project Location Map



Attachment 2: Terms and Conditions of Approval

1. A pre-work meeting including the responsible company representative(s), contractors, the Bureau of Land Management (BLM), Utah Department of Oil, Gas and Mining (DOG M), and the Manti-La Sal National Forest (FS) must be conducted at the project location prior to commencement of operations. Site-specific FS requirements will be discussed at this time.
2. A Road Use Permit must be obtained from the FS before equipment is transported onto National Forest System lands. No construction may begin prior to approval. Any modifications or changes to approved locations and conditions are also subject to review and approval.
3. All surface disturbing activities including reclamation must be supervised by a responsible representative of the permittee/licensee who is aware of the terms and conditions of the permits/licenses. A copy of the appropriate permits/licenses must be available for review at the project site at all times during operation.
4. The Authorized Officer must be notified 48 hours in advance that heavy equipment will be moved onto National Forest System lands and that surface disturbing activities will commence.
5. Establishment of campsites on National Forest System lands in support of this project will be authorized by the Forest Service under a Special Use Permit.
6. The Authorized Officer must be notified of any proposed alterations to the plan of operations, and the alterations approved prior to commencement.
7. Fire suppression equipment must be available to all personnel working at the project site. Equipment must include at least one hand tool per crew member consisting of shovels and pulaskis and one properly rated fire extinguisher per vehicle and/or internal combustion engine.
8. All gasoline, diesel, and steam-powered equipment must be equipped with effective spark arrestors or mufflers. Spark arrestors must meet FS specifications discussed in the "General Purpose and Locomotive (GP/L) Spark Arrester Guide, Volume 1, April, 1988"; and "Multi-position Small Engine (MSE) Spark Arrester Guide, April, 1989". In addition, all electrical equipment must be properly insulated to prevent sparks.
9. The permittee/licensee will be held responsible for damage and suppression costs for fires started as a result of operations. Fires must be reported to the FS as soon as possible.
10. Operations may be suspended during periods of high fire potential.

11. Water diversions will not be permitted on National Forest System lands.
12. Unauthorized off-road motorized travel, other than along the approved access routes, is prohibited.
13. Section corners or other survey markers, including claim corners, in the project area must be located and flagged for preservation prior to commencement of surface disturbing activities. The removal, displacement, or disturbance of markers must be approved by the proper authority. Replacement will be done by the proper authority at the expense of the permittee/licensee.
14. If cultural or paleontological resources are discovered during operations, all operations which may result in disturbance to the resources must cease and the Authorized Officer notified of the discovery.
15. Gates must be closed after entry unless otherwise specified.
16. The permittee/licensee will be held responsible for all damage to fences, cattleguards, resource improvements, roads, and other structures on National Forest System lands which result from their operations. The Authorized Officer must be notified of damages as soon as possible.
17. Operations must be coordinated with grazing permittees to prevent conflicts.
18. Harrassment of wildlife and livestock is prohibited.
19. Topsoil (soil "A" horizon) must be stripped from excavated areas and stockpiled for use during reclamation. Topsoil stockpiles will be located to minimize contamination or loss. Subsoil and rock material will be stockpiled separately.
20. During drilling operations all trash, garbage and other refuse must be properly contained on the project site prior to disposal at authorized sites.
21. All significant water encountered during drilling must be reported to the Authorized Officer, including the depth and formation at which it was encountered, and an estimate of the flow.
22. If any of the drill holes encounter artesian groundwater flow, the Authorized Officer must be notified prior to plugging the hole. The operator may be required to establish a permanent water development at the site.
23. All drill holes must be plugged in accordance with Federal and State regulations.
24. The permittee/licensee must clean up and remove all drilling equipment, trash, garbage, flagging, vehicles and other such materials from National Forest System lands.
25. Disturbed areas must be reclaimed by the end of the field season.

- 26 Drill rigs and heavy equipment (not including water trucks) must not be transported in or out of the project area during the opening weekend of the general elk hunt nor during the opening weekend of the general deer hunt and during holiday weekends. Water trucks must be preceded by a pilot vehicle when hauling water for the project during the above noted periods.
27. Contaminated soil and gravel must be stripped off of the sites and hauled off National Forest System lands prior to site reclamation.
28. Drill sites must be reclaimed by selectively backfilling excavated materials, topsoil last, so that the disturbed area is replaced to its approximate original contour. The disturbed area must be seeded with the specified seed mix.
29. Upon completion of the project, compacted soils (access routes, staging areas, camping areas) must be scarified and seeded with the specified seed mix.
30. All disturbed drainages must be replaced to their approximate original configuration when the project area is reclaimed.
31. The reclaimed roads must be signed and blocked off to discourage vehicle access by the public.
- 32 Reclamation efforts will be diligently pursued to insure that a minimum ground cover is established on all disturbed areas which is equal to or greater than the surrounding undisturbed areas. Revegetation will be considered successful when 90% of the predisturbance ground cover is re-established over the entire disturbed area, with no noxious weeds. Adjacent undisturbed areas will be used as a basis for comparison of ground cover. Of the vegetative ground cover, at least 90% must consist of seeded or other desirable species. The 90% of pre-disturbance ground cover must be maintained for three years.
33. The seed mix to be used for reclamation will be as follows:

		<u>Pounds PLS/acre</u>
Western Wheatgrass	Elymus smithii	2
Basin Wild Rye	Elymus cinereus	1
Intermediate Wheatgrass	Elymus hispidus	2
Blue Leaf Aster	Aster glaucodes	0.25
Lewis Flax	Linum lewisii	0.50
Small Burnet	Sanguisorbia minor	1
Silvery Lupine	Lupinus argentius	1
True Mahogany	Cercocarpus montanus	1
Bitterbrush	Purshia tridentata	1

This seed mix must be 99% pure live seed containing a maximum of 1% weeds, none of which are noxious.

34. The permittee/licensee shall take all reasonable and appropriate measures to prevent the introduction and proliferation of exotic plants and/or noxious weeds for all operations on the land surface. Heavy equipment, drilling equipment, transport vehicles, and the water trucks must be cleaned of mud and debris that could potentially transport noxious weed seeds prior to entering the National Forest. The permittee/licensee will be held responsible for control and eradication of exotic species and noxious weed infestations found to be a result of this project, until the Authorized Officer is notified by the Surface Management Agency that vegetative restoration is acceptable..

37. Stipulation for Lands of the National Forest System Under Jurisdiction of the Department of Agriculture.

The licensee/permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in the license. The Secretary of Agriculture rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of the Interior, (2) uses of all existing improvements, such as Forest Development Roads, within and outside the area licensed, permitted or leased by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by a permit/operating plan approved by the Secretary of the Interior.

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

Forest Supervisor
Manti-La Sal National Forest
599 West Price River Drive
Price, Utah 84501

Telephone No. (801) 637-2817

who is the authorized representative of the Secretary of Agriculture.