

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

January 27, 2011

TO: Internal File

THRU: April Abate, Lead *AAA* *2-11-2011* *VC*

FROM: Ingrid Campbell, Environmental Scientist

RE: West Coal Lease Modifications, Canyon Fuel Company, SUFCO Mine, Permit C/041/0002 and Task ID #3725

SUMMARY:

On August 30, 2010, the Division received an amendment application from Canyon Fuel Company (CFC) to include the West Lease to three existing leases in the Mines mining and reclamation plan. In addition to adding the West Lease area, CFC proposed to reduce the permit area and include an adjacent area line on Plate 5-6v17, Land Ownership, Lease and Permit area Map. The West Lease area represents approximately 9% of the lease area and 0% of the permit area. CFC plans to begin development mining for longwall panels in November 2011 with Division approval. The Division identified several deficiencies on December 1, 2010. CFC responded to the deficiencies on January 11, 2011.

The application cannot be approved at this time. Prior to approval, the applicant must address the following in accordance with:

R645-301-521: The adjacent area is not considered to have a defined boundary. The area is different depending on the resource (hydrology, biology etc). Please change the statement under #1 adjacent area on plate 5-6, to state that the adjacent area for biology is at least a 0.5 mile buffer around all surface disturbances.

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TECHNICAL ANALYSIS:

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

PERMIT AREA

Regulatory Requirements: 30 CFR 783.12; R645-301-521.

Analysis:

CFC modified Plate 5-6v17, Land Ownership, Lease and Permit Area Map to reduce the permit area, identify the exterior and interior SUFCO Lease boundary and to identify the adjacent area.

According to the map, the Lease Area includes all federal coal leases, state coal leases, fee lands and USFS special use permit areas. The total lease area shown on the map is 27,605.17 acres.

The Adjacent area line is drawn ¼ mile beyond all lease areas and totals 34,179.99 acres. The permit area includes some areas outside the lease area, therefore the adjacent area is within less than ¼ mile in some areas.

The revised Permit area boundary is 720.483 acres and encompasses areas larger than the disturbed area in some places but excludes the Spring collection field, pump house and leach field in Convulsion canyon entirely. This excluded disturbed area contains 1.971 acres of "permitted disturbed area" and .865 acres "actual disturbed area". On January 11, 2011 CFC submitted a revised copy of Plate 5-6 that clarified these discrepancies. All permitted and disturbed area is clearly accounted for on the plate.

Findings:

The information provided is not considered adequate to meet the minimum regulatory requirements for this section. Prior to approval, the permittee must submit the following in accordance with:

R645-301-521: The adjacent area is not considered to have a defined boundary. The area is different depending on the resource (hydrology, biology etc). Please change the statement

under #1 adjacent area on plate 5-6, to state that the adjacent area for biology is 0.5 mile buffer around all surface disturbances.

HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

Analysis:

The document, "A cultural resources inventory for the proposed west tract modifications coal lease, Old Woman Plateau Area, Fishlake National Forest, Sevier County, Utah" is included in the application in appendix 4-2. The report was prepared by Earth Touch inc on October 27, 2008. The inventory resulted in the identification of 15 cultural resource sites including lithic scatters, rock shelters, rock art sites, a lithic source and a historic debris scatter. Out of the 15 sites, 6 sites were recommended eligible for listing in the National Register of Historic Places. The report concluded that effects from undermining, including surface cracking, slumping, or collapsing bedrock outcrops, could have an effect on eligible properties.

A paleontological file review was conducted for the area by the Utah Geological Survey. No significant paleontological sites were identified. Potential for discovery of significant fossil localities exists within the project area. The report concluded that, unless fossils are discovered as a result of these activities, undermining the west lease should have no impact on paleontological resources.

EarthTouch recommended that the following stipulations apply during mining operations in order to avoid damage to cultural resources:

- Personnel and equipment associated with the project should be restricted to those areas cleared for the project.
- Personnel associated with the project should refrain from collecting of otherwise disturbing cultural materials that may be encountered during development
- If unrecorded cultural or paleontological materials are encountered during the project construction, activities in the affected area(s) should cease, and the Utah State Historic Preservation Office and/or the Fishlake National Forest, should be notified before development in the area is resumed
- Human burials or other physical remains encountered during project construction, require immediate cessation of activity in the affected area, as well as immediate notification of proper authorities. Native American burials or other remains must be reported to the Utah SHPO and appropriate Native American groups.

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In the EA in Appendix 3-13, Section 4.2.1.4 states that Forest Service Lease stipulation no. 1 would prevent or require mitigation of potential impacts on heritage or paleontological resources discovered during mining operations.

The West Lease is entirely on Fishlake National Forest property. Therefore, the US Forest Service will review the report and make a determination of effect on cultural resources. This determination will be forwarded to the Utah State Historic Preservation Office for concurrence. Located at the end of Appendix 4-2, a letter from Scott Billat of EarthTouch explains this process.

Findings:

The information provided is considered adequate to meet the minimum regulatory requirements for this section.

VEGETATION RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.19; R645-301-320.

Analysis:

Appendix 3-13 includes an Environmental Assessment of the West Coal Lease Modification area prepared by the BLM. Section 3.0 of the report describes the affected environment. The vegetation community types in the west coal lease area include: Ponderosa pine/ curl leaf mahogany, riparian, mountain sage, mixed conifer, gambel oak/ mountain juniper, Aspen, perennial grass, mountain shrubs, pinion/ juniper, and others. No disturbance to vegetation is expected from mining.

Plant Communities and sampling areas are shown on Plate 3-1v8.

Findings:

The information provided is considered adequate to meet the minimum regulatory requirements for this section.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

Analysis:

The EA in Appendix 3-13 reviewed the presence of Forest Service Sensitive species and Management Indicator Species in the West Coal Lease area. (Sections 3.3.3.1, 3.3.3.2).

In Section 4.2.1.3, it was found that three sensitive species could be adversely affected by mining. These species included: Spotted bat, townsend's big eared bat, and greater sage grouse. The report also states that individuals from these species could be affected but mining will not affect population viability or contribute to a trend toward federal listing.

Two groups of Management Indicator species also could be potentially affected by mining. These groups included riparian nesters and aquatic macroinvertebrates. The report states that the potential adverse effects are low and that forest-wide population trends would not be affected.

Findings:

The information provided is considered adequate to meet the minimum regulatory requirements for this section.

LAND-USE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.22; R645-301-411.

Analysis:

Land use information for the west coal lease is included on Plat 4-1Av6. Land uses in this modification area include: US forest service management, Habitat for management indicator species, and intensive livestock management.

Findings

The information included is considered adequate to meet the minimum regulatory requirements for this section.

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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:

Endangered and Threatened Species

Section 3.3.3 of the EA in Appendix 3-13 states that no federally listed or candidate plant or wildlife species or their critical habitats have been identified in the project area.

Bald and Golden Eagles

Two golden eagle nests are located adjacent to the west coal lease area. No active golden eagle nests are located within the lease area. The only potential effects to raptors from mining would be through subsidence. Subsidence should not affect the identified nests due to their location.

Wetlands and Habitats of Unusually High Value for Fish and Wildlife

Section 3.3.2 of Appendix 3-13 discusses wetlands in the west coal lease area. Five wetland areas were identified associated with springs in the area. No surface effects area proposed to occur as a result of undermining. Water replacement plans are required if water loss occurs as a result of undermining. Mitigation Measures are summarized in section 4.2.1.5 of the EA in Appendix 3-13.

Findings:

The information provided is considered adequate to meet the minimum regulatory requirements for this section.

RECOMMENDATIONS:

The application is not recommended for approval at this time.