

#4367
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TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

July 3, 2013

TO: Internal File

THRU: James Owen, Lead *JO*

FROM: Ingrid Campbell, Environmental Scientist III *IC*

RE: 3R2S Panel Block B, Canyon Fuel Company, SUFCO Mine, C041/0002, Task ID #4367

SUMMARY:

On June 5th, 2013, the Division received an application from Canyon Fuel Company (CFC) to add Block "B" of the 3R2S panel for mining. A portion of Block B is located under the South Fork of Quitcupah Creek channel which requires the monitoring and mitigation plan found in Appendix 3-14. This monitoring and mitigation plan has already been approved by the Division for the 2R2S panel.

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

R645-301-411: Please submit a cultural resource inventory of the subsidence area in coordination with the Manti-La-Sal National Forest Service archeologist. The USFS archeologist will be responsible for obtaining concurrence of findings with the State Historic Preservation Office. Also, please update the Cultural and Historic resource information on page 4-12 and 13 of the MRP to include Panel 3R2S Block B.

Please submit the Memorandum of Agreement between the permittee, State Historic Preservation Office and the US Forest Service for incorporation into the MRP in appendix 4-6. This MOA was developed in response to the 2R2S panel A cultural resource survey and will pertain to future surveys including the required one for this application.

R645-301-322: Please provide the 2013 raptor surveys that include the block b portion of the 3R2S panel.

Also, please be aware that the Threatened, Endangered and Sensitive species surveys that were committed to by CFC in Appendix 3-14 of the approved Mining and Reclamation Plan are required to be completed and submitted to the Division prior to undermining the South Fork of the Quitcupah.

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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.

HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

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

Analysis:

No cultural resources report for the Panel Block B of the 3R2S panel is included in the application. The permittee is required to submit a class III survey of the area and receive concurrence from the USFS and SHPO.

A Memorandum of Agreement (MOA) regarding the protection and mitigation of the cultural resources between the USFS, USHPO and the permittee was developed as a result of the 2R2S panel A cultural resource survey. The MOA needs to be submitted to the Division for incorporation into the MRP in Appendix 4-6 to update the current MOA in appendix 4-5.

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:

R645-301-411: Please submit a cultural resource inventory of the subsidence area in coordination with the Manti-La-Sal National Forest Service archeologist. The USFS archeologist will be responsible for obtaining concurrence of findings with the State Historic Preservation Office. Also, please update the Cultural and Historic resource information on page 4-12 and 13 of the MRP to include Panel 3R2S Block B.

Please submit the Memorandum of Agreement between the permittee, State Historic Preservation Office and the US Forest Service for incorporation into the MRP in appendix 4-6. This MOA was developed in response to the 2R2S panel A cultural resource survey and will pertain to future surveys including the required one for this application.

VEGETATION RESOURCE INFORMATION

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

Analysis:

Dr. Patrick Collins of Mt. Nebo Scientific conducted a gain/loss riparian inventory in 2012 of the Quitchupah creek drainage in areas that will be undermined. The report is included in the SUFCO mine 2012 annual report submittal. The vegetation within the canyon was sampled in August and October 2012. Several monitoring points were surveyed for riparian vegetation within and outside the proposed subsidence zone. The points outside the subsidence zones will be used as control points for comparison in the future. Several items were documented at each site including vegetative community, community successional stage, apparent forage trend, estimated forage production, beaver activity, bank condition and erosion rating. Species present were recorded. A photograph was taken at each site. This will serve as the baseline vegetation survey.

Findings:

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

FISH AND WILDLIFE RESOURCE INFORMATION

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

Analysis:

CFC did not submit any new information pertaining to fish and wildlife. A wildlife assessment was conducted in 1980 by H. Duane Smith and Clyde Pritchett located in Appendix 3-3 of Volume 5 of the approved MRP. The area of study includes the South Fork of Quitchupah Creek. There are elk calving grounds and elk winter range as well as big game migration routes in the area. Page 43 of the report explains possible impacts from subsidence to wildlife. The long-wall and room and pillar mining techniques proposed would minimize surface impacts and associated impacts to wildlife. Undermining the area should not have an impact on big game directly, but indirect impacts could occur if water loss is experienced. CFC included a subsidence monitoring and mitigation plan in the application. SUFCO has committed to promptly provide alternate sources of water, replace or compensate any state appropriated water supply that is contaminated, diminished or interrupted by mining operations for wildlife, cattle or drinking water. The report also suggests, on page 56, that water is the most limiting resource, and it would be advantageous of the mining company to install additional permanent water via development of springs, wells or guzzlers at strategic locations within the lease area.

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Findings:

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

LAND-USE RESOURCE INFORMATION

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

Analysis:

The South Fork Quitchupah Creek is located in the Fishlake National Forest and is subject to the Land and Resource Management Plan prepared by the USFS. According to the plan, the main forest uses are recreation, fish and wildlife, timber, mineral extraction and grazing.

Two categories of Management Indicator Species (MIS) groups have been identified in the Fishlake National Forest for viable population maintenance: ecological indicators and high interest. The ecological indicator species include gowhawks, cavity nesters, riparian dependent guild, sage nesters, macroinvertebrates and resident trout. The high interest species include elk, mule deer, Bonneville cutthroat trout and Rydberg's milkvetch. The purpose for protection of these two categories is to ensure high habitat quality and protection for all forest species.

The Forest service provided the Division with comments regarding the Block A of panel 2R2S which also undermines a portion of the South Fork Quitchupah on December 7, 2011. In their comments, the FS indicated that they designated the area in question for use as grazing and management indicator species habitat. They also emphasized that protection of the riparian habitat was important. The Division worked with the permittee to develop a monitoring and mitigation plan to address the Forest Services' needs.

Findings:

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

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:

Protection and Enhancement Plan

A wildlife assessment was conducted in 1980 by H. Duane Smith and Clyde Pritchett located in Appendix 3-3 of Volume 5 of the approved MRP. The area of study includes the South Fork of Quitcupah Creek. There are elk calving grounds and elk winter range as well as big game migration routes in the area. Page 43 of the report explains possible impacts from subsidence to wildlife. The long-wall and room and pillar mining techniques proposed would minimize surface impacts and associated impacts to wildlife. Undermining the area should not have an impact on big game directly, but indirect impacts could occur if water loss is experienced. CFC included a subsidence monitoring and mitigation plan in the application. SUFCO has committed to promptly provide alternate sources of water, replace or compensate any state appropriated water supply that is contaminated, diminished or interrupted by mining operations for wildlife, cattle or drinking water. The report also suggests, on page 56, that water is the most limiting resource, and it would be advantageous of the mining company to install additional permanent water via development of springs, wells or guzzlers at strategic locations within the lease area.

Endangered and Threatened Species

Table 3-1 in the application is an updated list of Federally Listed and Proposed Endangered Species in Utah Sevier and Emery Counties as of April 2, 2013. The Fish Lake National Forest consulted with the US Fish and Wildlife Service in 2012 regarding the impact to endangered species from undermining. The USFWS concurred with the USFS finding of no impact. CFC included a commitment to survey for all TEC and Sensitive species within the South Fork Quichupah mining area prior to undermining. This commitment is located in Appendix 3-14 under Vegetation. A survey of this sort has not been submitted to the Division as of June 2013.

The USFS also initiated a section 7 consultation with the USFWS regarding the endangered Colorado River Fish. The USFWS indicated that the mine is located in a watershed

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that contributes to the Dirty Devil River which is not considered habitat for the endangered fish species. This information was provided through email correspondence which is on file with the Division.

Bald and Golden Eagles

A raptor survey was conducted by Tetra Tech in 2012 over potential subsidence zones. According to the 2012 raptor survey data, two red-tailed hawk nests are located near the South Fork of Quitchupah but not directly over the projected panels. No new or historic active nests were identified. The 2013 raptor surveys have been conducted but not yet submitted to the Division.

Wetlands and Habitats of Unusually High Value for Fish and Wildlife

The monitoring plan in appendix 3-14 includes a commitment that baseline data will be collected in the riparian areas and then monitored twice a year for the first two years and then once during the fifth year after undermining.

Findings:

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

R645-301-322: Please provide the 2013 raptor surveys that include the block b portion of the 3R2S panel.

Please be aware that the Threatened, Endangered and Sensitive species surveys that were committed to by CFC in Appendix 3-14 of the approved Mining and Reclamation Plan are required to be completed and submitted to the Division prior to undermining the South Fork of the Quitchupah.

RECOMMENDATIONS:

The application cannot be approved at this time.