

C/041/002 Incoming

United States Department of the Interior

#5360



OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT

Western Region Office
1999 Broadway, Suite 3320
Denver, CO 80202-3050



UT-0026

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DIV. OF OIL, GAS & MINING

Daron R. Haddock
Coal Program Manager
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84116

Re: Sufco Mine, Permit Number C/041/0002, 3 Right 4 East Panel(s) Amendment, Canyon Fuel Company, LLC, Task # 5360

Dear Mr. Haddock,

This letter is in response to the Utah Division of Oil, Gas & Mining's January 25, 2017, request for a determination, under 30 Code of Federal Regulations (C.F.R.) § 944.30, whether Task #5360 for the underground Sufco Mine constitutes a mining plan modification. Mining plan approvals and modifications by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on federal lands. *See also* 30 C.F.R. § Part 746. This response serves to document the Office of Surface Mining Reclamation and Enforcement's (OSMRE) determination whether or not a mining plan approval from the Secretary is required for the permitting action of Task #5360.

As described in the permit application package submitted to the Utah Division of Oil, Gas & Mining (DOGM), Canyon Fuel Company, LLC is proposing to change the 3 Right 4 East (3R4E) Panel(s) orientation and also change the mining method from room and pillar to longwall, resulting in a loss of 123,795 tons of federal coal. There would be no change in the amount of employees at the mine and transportation of the coal, by truck, would remain the same.

The 3R4E Panel(s) are located on existing Federal coal leases U-63214 and U-62453 which are part of the Quitchupah Tract/Lease located within the Manti-La Sal National Forest in Sevier County, Utah, approximately 30 miles east of Salina. Mining of this panel(s) will straddle both U-63214 and U-62453 leases, which are referred to as the Quitchupah Tract/Lease. Both leases have secretarial approved mining plan decision documents. Lease U-62453 was part of the original, May 19, 1987, mining plan that also included federal leases U-28297, U-149084 and SL-62583. Approval authorized longwall and room and pillar operations to mine 40 million tons of coal beneath 6,693 federal acres. Lease U-63214 received secretarial approval on December 19, 1989. Approval authorized longwall mining operations to mine 86 million tons of federal coal beneath 9,905 federal surface acres.

Subsidence is likely to occur where coal is removed by longwall operation, ranging up to 5 feet in depth as estimated by engineers at Canyon Fuel Company, LLC. If there is subsidence to the Castlegate Sandstone escarpment, a loss of three golden eagle nests would likely occur. One of the three nests in the canyon was active in 2015; the same nest appeared tended in 2014 and 2016. Canyon Fuel Company, LLC will work with the United States Fish and Wildlife Service (FWS) to receive an incidental take permit. Canyon Fuel Company, LLC contacted FWS to start the process, however, FWS requires Canyon Fuel Company, LLC to have state and federal permission to longwall mine the 3R4E Panel(s) before work on an incidental take permit can occur.

Greater sage-grouse primary habitat occurs within the 3R4E Panel(s) mining unit. According to 30 CFR 761.200, subsidence is not a surface disturbance, therefore, additional surface disturbance is not anticipated because the mine's ancillary needs will be met with current facilities already in place. Noise created from operation of the mine, is not expected to increase in the existing areas associated with the mining activity. Additionally, the following condition of approval for this action will be included in this determination per the United States Forest Service's (FS) requirement for mining operations in the Manti-La Sal National Forest:

- To protect Greater sage-grouse habitat, locate new appurtenant surface facilities outside priority habitat management areas, unless no technically feasible alternatives exist. If new appurtenant surface facilities cannot be located outside of priority habitat management areas, locate them within any existing disturbance areas, if possible. If location within an existing disturbed area is not possible, then construct new facilities to minimize disturbed areas while meeting mine safety standards and requirements in the established mine plan approval process and locate the facilities in an area least harmful to Greater sage-grouse habitat based on vegetation, topography, or other habitat features.

Three cultural resource sites were identified at the 3R4E Panel(s) mining unit. According to the State Historic Preservation Office, these sites have not been listed with the National Register. The sites are north of the 3R4E panel(s), but lie over existing mains. The three sites will be re-surveyed in 2017 should mining be approved for the 3R4E Panel(s). Additionally, due to the fact that a cultural resource survey was not conducted in the subsidence area of the 3R4E Panel(s) a new cultural resource survey must be done for the projected subsidence zone. Canyon Fuel Company, LLC has hired TetraTech, out of Salt Lake City, to conduct a cultural survey in late spring or early summer. It is OSMRE's understanding that Canyon Fuel Company, LLC will continue to work with DOGM, the FS, and the State Historic Preservation Office to ensure that the sites are protected to the extent required by law.

On March 9, 2017, OSMRE consulted with the Bureau of Land Management (BLM) Price Field Office and the FS Manti-La Sal National Forest in accordance with 30 C.F.R. §740.13(d)(2). After reviewing the Sufco Mine Amendment, the OSMRE has determined that the proposed action to mine 3R4E Panel(s) using a longwall operation does not constitute a mining plan modification under 30 C.F.R. § 746.18. However, the proposed action does require further coordination with FS and DOGM. The reasons for OSMRE's decision that Task #5360 does not constitute a mining plan modification are:

1. There is not a change in the mining plan that would affect the conditions of its approval pursuant to Federal law or regulation. *See* 30 C.F.R. § 746.18(d)(1). Canyon Fuel Company, LLC will work with the FWS to determine whether a take permit is required. Additionally, cultural resource surveys will take place before longwall mining occurs in the 3R4E Panel(s), and the sites will be assessed as to whether or not they will need to be registered in the State and/or National Register of Historic Places. If registration is not required, a determination will be made whether the site should be avoided, moved, or if mining should occur with mitigation to the sites. Thus, the change to the mining plan for the Quitchupah lease tract is not anticipated to change in a way that would affect the conditions of the mining plan approval.
2. No change would occur to affect the level of protection to land, facilities and places designated unsuitable for mining because the area is designated as suitable for mining. *See* 30 C.F.R. § 746.18(d)(2).
3. Task #5360 does not change the location of the coal to be mined. *See* 30 C.F.R. § 746.18(d)(3). Rather, it changes the mining method. Due to the fact that 126 million tons of federal coal was originally approved for recovery, a decrease of 123,795 tons of federal coal is considered minor by OSMRE. The Resource Recovery and Protection Plan (R2P2) for Canyon Fuel Company, LLC Sufco Mine is on file with BLM. The R2P2 contains detailed mining plan and reserve calculations for all of Sufco Mine's leases operated by Canyon Fuel Company, LLC. Canyon Fuel Company, LLC submitted a request to modify the approved R2P2. BLM determined that the modification to the R2P2 would meet BLM maximum economic recover requirements.
4. Task # 5360 is not for a new coal lease and there are no reclamation activities occurring on a new lease. Accordingly, the change in mining method does not result in a change which would extend coal mining and reclamation operations on leased Federal coal lands for the first time. *See* 30 C.F.R. § 746.18(d)(4).
5. Task #5360 does not meet OSMRE's standards (516 DM 13.4) of a major federal action normally requiring an Environmental Impact Statement (*See* 30 C.F.R. § 746.18(d)(5)) because underground mining is not occurring in or causing any of the following situations:
 - a. Mountaintop removal operations
 - b. Mining within high use recreation areas
 - c. Mining that will cause population increases that exceed the community's ability to absorb the growth
 - d. Mining that would require a major change in existing coal transportation facilities
6. There is no change proposed to the mining operations and reclamation plan that would result in a change to the post mining land use of federally owned surface. The current post mining land use is wildlife habitat (the Manti-La Sal Forest manages the area as General Big Game Winter Range) and timber management. Task #5360 would not require a change to these uses. *See* 30 C.F.R. § 746.18(d)(6).

Therefore, a mining plan approval from the Assistant Secretary of Land and Minerals Management is not required for Task #5360. OSMRE's decision is based upon consideration of Canyon Fuel Company, LLC's Permit Application Package submitted to the State of Utah and 30 C.F.R. § Parts 740 and 746. Consequently, OSMRE's decision does not relieve DOGM from coordinating the

review and approval of Task #5360 with other Federal agencies for compliance. Also, if Canyon Fuel Company, LLC is unable to obtain a FWS take permit for the golden eagle nests and/or if the cultural surveys indicate that any cultural sites have historic significance, DOGM must re-consult with OSMRE as to whether or not Task #5360 requires Secretarial approval.

Sincerely,



Elizabeth Shaeffer, Manager
Field Operations Branch

cc: BLM Price Field Office
FS Manti-La Sal National Forest