

SEP 24, 1996

In Reply Refer To:  
FWS/AES/TE

Memorandum

To: Acting Director, Office of Surface Mining Reclamation and Enforcement

From: Assistant Director - Ecological Services

Subject: Formal Section 7 Biological Opinion and Conference Report on Surface Coal Mining and Reclamation Operations Under the Surface Mining Control and Reclamation Act of 1977

The U.S. Fish and Wildlife Service has reviewed your March 21, 1995, request for formal section 7 Endangered Species Act consultation regarding the continuation and approval of surface coal mining and reclamation operations under State and Federal regulatory programs adopted pursuant to the Surface Mining Control and Reclamation Act of 1977, as amended, and its implementing regulations. Details of the proposed action are included in the attached document.

The Service and the Office of Surface Mining Reclamation and Enforcement began informal discussions in September 1994 to develop procedures to fulfill OSM's need to consult on the potential for the proposed action to adversely affect species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*). Appropriate Service Regional and Field Offices were contacted for comments.

The attached document represents the Service's biological opinion and conference report on the effects of the action, as proposed, on listed and proposed species and designated and proposed critical habitats in accordance with section 7 of the ESA. They are based on information provided at numerous meetings of the staffs of OSM and the Service throughout 1994 and 1995, information in our files, and other sources of information. A complete administrative record of this consultation is on file in this office.

The Service has concluded that the proposed action is not likely to jeopardize the continued existence of any threatened, endangered, or proposed species or result in adverse modification of designated or proposed critical habitats.

This concludes formal consultation and conference on the proposed action. The biological opinion and conference report does not absolve OSM from following appropriate conference/consultation procedures at any implementation level that may affect proposed or listed species or their proposed or designated critical habitats in a manner not considered in this consultation/conference.

Thank you for your consideration of endangered species. Should you need any additional information or have any questions concerning this issue, please contact E. LaVerne Smith, Chief, Division of Endangered Species at 703/358-2171.

/sgd/ Jamie R. Clark

Attachments