



STATE OF UTAH  
NATURAL RESOURCES  
Oil, Gas & Mining

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January 29, 1987

Mr. Terry L. Grosz  
Assistant Regional Director  
Law Enforcement  
U. S. Fish and Wildlife Service  
P.O. Box 25486  
Denver Federal Center  
Denver, CO 80225

Dear Mr. Grosz:

RE: Intent to Issue Eagle Nest Taking Permit, Plateau Star Point  
Mines, ACT/007/006, Carbon County, Utah, Folder #2

I have recently received a copy of a letter from you to Ben Grimes of Plateau Mining Company in regard to potential subsidence of a cliff face which currently supports two golden eagle nests. While you are not within your two year statutory limitation of licensing authority for a take permit, we appreciate your willingness to give your "best guess" (based on existing data) that a permit can be issued at the proper time. We have not, as yet, reviewed the Plateau mining proposal which will include both subsidence and eagle monitoring plans but will do so in the very near future. I will provide you with a copy of their monitoring plans.

I am writing to request clarification of one condition of the proposed take permit. Condition (a) indicates that:

"Permittee will be authorized to physically remove any INACTIVE eagle nest(s) or other inactive bird of prey nest(s) threatened by subsidence resulting from long wall mining operations."

This statement appears to give the permittee permission, not only to inadvertently destroy inactive nests through subsidence but to intentionally remove them from the cliff in anticipation of subsidence. Preventing birds from nesting on the cliff during the period of maximum subsidence danger (permitted with notification of USFWS and UDWR under condition [b]) may be controversial but can at least be viewed as a temporary protection measure with only a minor impact on bird production. Condition (a), on the other hand, seems to set an unusual precedent for avoiding potential conflict with the law (taking of an active nest) by permanently affecting the potential for productivity from these nests. That would be a serious precedent from the mine regulatory perspective.

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If I am misinterpreting condition (a), I would appreciate clarification. Please call if discussing this question would be easier than paper ping pong. Thanks.

Sincerely,



Kathryn M. Mutz  
Reclamation Biologist

cc: J. Whitehead  
C. Johnson, USFWS/ES  
B. Grimes, PMC  
L. Dalton, DWR  
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