

EUREKA ENERGY COMPANY

A SUBSIDIARY OF PACIFIC GAS AND ELECTRIC COMPANY

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APR 04 1980DIVISION OF
OIL, GAS & MINING

RE - Wildlife survey by ERT from aircraft

Memo to the file

April 2, 1980

Mr. Larry Dalton of UDWR called this morning concerning our plans to fly a wildlife survey on Thursday morning (4-3-80).

ERT had asked Charles Greenwood to accompany us on the flight (3-31-80). Mr. Greenwood had mentioned to ERT that UDWR was the only agency in the state of Utah authorized to fly or give permission to fly wildlife surveys in the State. At that time, ERT was under the impression that because Mr. Greenwood would be along that we were authorized to fly.

Dalton informed me that the UDWR ^{were} was the only people authorized to fly a wildlife survey and that this authority came from the Utah Code Section 23-20-12. He read the following from the code, "It is unlawful for anyone to take wildlife from an aircraft." He read a definition of take as: "...persue, locate, harass..." Dalton said that to fly a wildlife survey for qualitative counting and grouping data on mule deer would be considered harassment by UDWR.

Dalton "had no problem" with sending Charles Greenwood (UDWR) up with us as long as we did not do any "wildlife surveys" outside of our project area. I told Dalton that one of the main purposes for flying was to supplement data being collected by ERT in the areas outside the project area, and if we could not fly a wildlife survey along the Book Cliffs (between Kenilworth, Ut. and Canyon B) it would not be productive to fly this week at all. (UDWR had flown over the project area on Tuesday 4-1-80). He reiterated that we could fly a wildlife survey over the project area but not anywhere else.

I asked why we could "harass" the deer in our project area but not outside it. I was particularly interested in his reply because he had also stated earlier in the conversation that they (UDWR) had trapped some 80 plus deer this

winter and herd 27b seemed to be in good condition and flying was unlikely to be damaging to the herd. Dalton's stated reason or answer to my question was, "Because we don't need that information." I told him that all the data ERT is gathering on winter deer use adjacent to the project area will be available to UDWR and I did not understand why UDWR was turning down the opportunity to gain a better understanding of deer use on herd 27b's winter range. His reply was bifurcated and the two parts not contiguous, a) "Because we don't need that information," and "If you want to know where the deer are come by our office and we'll tell you." b) "We don't accept that method (flying) as a biologically acceptable means of gathering that (qualitative information on deer gathering and intensity of use) data."

I felt flying over the adjacent area was important so I asked at what altitude could we fly over the adjacent area and not be "harassing" the deer. He said that it was not a question of altitude and we could fly as close to the ground as we wanted, but when you begin to persue deer with an aircraft you are then "harassing" them. He also said we could fly habitat studies but as soon as we were flying for the purposes of wildlife studies we were (and this was implied not stated) breaking the law.

I told Mr. Dalton we would cancel the flight if we could not fly a wildlife survey outside the project area.

The flight was cancelled late in the day (4-2-80).

P. B. Anderson