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From: <Jeff_McKenzie@blm.gov>
To: "Pam Grubaugh-Littig" <PAMGRUBAUGHLITTIG@utah.gov>
Date: 1/23/2007 8:03:12 AM
Subject: Re: Fish and Wildlife Service Position - impacts to Migratory

Thanks for the copy.

Good to have a summary...

"Pam
 Grubaugh-Littig"
 <PAMGRUBAUGHLITTI
 G@utah.gov> To
 <James_Kohler@blm.gov>,
 <Jeff_McKenzie@blm.gov>,
 01/23/2007 07:54 <SWRigby@blm.gov>,
 AM <jmarshall@coalsource.com>,
 <ddragoo@swlaw.com>
 cc
 "Jerriann Ernstsens"
 <JERRIANNERNSTSEN@utah.gov>, "Mary
 Ann Wright"
 <MARYANNWRIGHT@utah.gov>, "Sheila
 Morrison"
 <SHEILAMORRISON@utah.gov>, "Wayne
 Hedberg" <WAYNEHEDBERG@utah.gov>
 Subject
 Fish and Wildlife Service Position
 - impacts to Migratory

Here's the letter from the USFWS regarding the FWS position regarding impacts to migratory birds, specifically golden eagles.

(See attached file: 20070123074213.pdf)

CC: <ddragoo@swlaw.com>, <James_Kohler@blm.gov>, "Jerriann Ernstsens" <JERRIANNERNSTSEN@utah.gov>, <jmarshall@coalsource.com>, "Mary Ann Wright" <MARYANNWRIGHT@utah.gov>, "Sheila Morrison" <SHEILAMORRISON@utah.gov>, <SWRigby@blm.gov>, "Wayne Hedberg" <WAYNEHEDBERG@utah.gov>, <Stan_Perkes@ut.blm.gov>, <Gregg_Hudson@blm.gov>

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USFWS-Utah Field Office

002/003



United States Department of the Interior
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

In Reply Refer To

FWS/R6

ES/UT

7-FA-0092

January 22, 2007

Pamela Grubaugh-Littig
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801

RE: Lila Canyon Extension of Horse Canyon Mine, Utah American Energy, Inc., Utah State
Permit C/007/0013

Dear Ms. Grubaugh-Littig:

This letter conveys the Fish and Wildlife Service (Service) position regarding impacts to migratory birds, specifically golden eagles, from the Lila Canyon extension of the Horse Canyon mine, located in Emery County, near East Carbon and Sunnyside, Utah. Five golden eagle nests are located within approximately 0.5 miles from the surface facility area, and could be subject to disturbance from surface construction activities. In addition, possibly as many as three golden eagle nests are located within the subsidence risk zone and could be impacted by subsidence resulting from underground mining activities.

The Utah Division of Oil, Gas, and Mining (UDOGM) requested (personal communication with Jerriann Ernsten, January 18, 2007) our assistance in order to ensure the proposed project avoids and minimizes take of migratory birds and impacts to their habitat in accordance with the Migratory Bird Treaty Act (MBTA), the Bald and Golden Eagle Protection Act (BGEPA). Under authority of the MBTA, it is unlawful to take, kill, or possess migratory birds, their parts, nests, or eggs. Take is defined (50 CFR 10.12) as to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect. The BGEPA provides additional protection beyond the MBTA, prohibiting disturbance or destruction of bald or golden eagle nests at any time.

We believe that the construction disturbance that is proposed to occur with the mine expansion will not be likely to result in take. We make this determination based on the following commitments that have been agreed upon by the mine operator and the agencies (UDOGM, Bureau of Land Management [BLM], Utah Division of Wildlife Resources [UDWR], and the Service) and will be a requirement of the mining permit issued by UDOGM:

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JAN 22 2007

DIV. OF OIL, GAS & MINING

