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CONSOLIDATION COAL CO.

P.O. Box 566

Sesser, IL 62884

Phone: (618) 625-2041

Fax: (618) 625-6844

DATE: 5/24/05

*Handwritten:* jacob  
4/15/0012

TO: Joe HELFRICH

Dept: \_\_\_\_\_

FROM: JOHN GEFERTH

Number of originals: \_\_\_\_\_ + Cover

Special Instructions: \_\_\_\_\_

Per phone conversation

I dont think the

first copy went through

RECEIVED

MAY 24 2005

*Faint vertical text:* MAY 24 2005

**Casib Helicopter Service**  
 2244 South 1640 West  
 Woods Cross, UT 84087

**Sales Invoice** 2496  
**Date** 5/29/2002  
**Customer ID** COE01

(801) 295-5700  
 Fax (801) 295-5795

**Purchase Order ID** RAPTOR SURVEY  
**Tax Exemption ID**

**Bill To**

CONSOL ENERGY  
 P.O. BOX 284  
 ATTN: SETH McCOURT  
 EMERY, UT 84522

**Ship To**

CONSOL ENERGY  
 P.O. BOX 284  
 ATTN: SETH McCOURT  
 EMERY, UT 84522

<u>Quantity</u>	<u>Description</u>	<u>Discount</u>	<u>Unit Price</u>	<u>Item Total</u>
0.90	L1 RATE - PRICE - LCL ON 5/24/02	0.00%	\$780.00	\$702.00
1.00	DAY - 1/3 DAY FUEL TRUCK SUPPORT	0.00%	\$100.00	\$100.00
75.00	MILES - MILEAGE FEE	0.00%	\$1.00	\$75.00
1.00	DAY - PRORATED PER DIEM	0.00%	\$85.00	\$85.00

**Shipping Method** Counter Pickup  
**Salesperson** No Salesperson  
**Payment Terms** Net 30 Days  
**Payment Method** No Payment Received  
**Memo**

**Subtotal** \$962.00  
**Discount** 0.00% \$0.00  
**Sales Tax** \$0.00  
**Freight Amount** \$0.00  
**Total** \$962.00  
**Amount Paid** \$0.00  
**Balance Due** \$962.00

No. 0410 P. 2/9  
 MAY 24 '05 09:46AM

MAY 24 2005 8:49AM

## WILDLIFE

Geographical database information from State of Utah, Division of Wildlife Resources (DWR) suggest the area is not critical habitat for pronghorn, elk, mule deer, or rocky mountain bighorn sheep.

## RAPTORS

DWR biologists visited the site along with representatives from Consolidation Coal Company. At that meeting it was suggested that there was a low probability of raptor occurrence in the area (personal communications with S. McCourt, March 2002). Consolidation Coal Company has committed to participate in the annual raptor survey conducted by DWR and all coal operators in the area. The survey is to be conducted within the boundaries of the permit area including at least a one-half mile buffer around the entire permit area. The survey will be performed in late-May 2002

During site visits by *Mt. Nebo Scientific, Inc.* searches were made for prairie dog communities within the boundaries of the 4th East Portal area. Prairie dog communities are known to be important habitat for burrowing owls. No such communities were found in the proposed disturbed area, but prairie dog towns have been identified within 0.5 miles from it. Following is a survey conducted in these areas by *Mt. Nebo Scientific, Inc.* in May 2002.

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JUN 03 2002

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MAY. 24. 2005 8:49AM

No. 0410 P. 3/9  
MAY 24 '05 8:49AM

### Burrowing Owl Survey

Burrowing owls (*Athene cucularia*) can be found in annual and perennial grasslands as well as deserts and shrublands such as those areas near the Emery Deep Mine site. In the salt deserts of Utah they are most often associated with prairie dog towns where they use their burrows for protection, shelter and nesting. The owls typically prefer areas where the vegetation canopy cover is less than 30 percent.

Prairie dog towns had been previously mapped within the Emery Deep permit area [see the Mining & Reclamation Plan (MRP) Map 10-1]. As mentioned above, no prairie dog towns were found within the boundaries of the 4<sup>th</sup> East Portal area, however there were two towns located with one-half mile of this area. A survey was conducted for the presence of burrowing owls at the prairie dog towns that were within 0.5 miles from the proposed disturbance of the 4<sup>th</sup> East Portal area. Additionally, there were two additional towns located within 1.0 mile of the 4<sup>th</sup> East Portal area. These towns were also visited (for shorter time periods) during the field study.

### Study Methods

Burrowing owl survey protocol was observed. The study was conducted at the most appropriate time period, or between April 15 and July 15 during peak breeding season. First, the suitable habitat (in this case the prairie dog towns) were walked noting whether or not the burrows were active. 'Active' meant if they were used by prairie dogs, owls or other animals such as rabbits.

Once it was ascertained that the site was active, observation stations were chosen that provided the best views of the burrow areas to survey for the presence of the owls.

As mentioned, there were two prairie dog towns that were within 0.5 miles of the 4<sup>th</sup> East Portal area. This study concentrated on those two towns. The survey consisted of four site visits on four separate days. The visits were planned for two morning surveys and two evening surveys. The morning surveys were conducted from one hour before sunrise until two hours after (or from approximately 6 a.m. to 9 a.m.), whereas the evening surveys were conducted from two hours before sunset until one hour after (or from 6 p.m. to 9 p.m.). Although the two towns surveyed were within 0.5 miles from each other and a viewable distance for observation of both, topography precluded investigators from using only one observation station due to limited visibility. Therefore, during each survey visit at least two observation points were utilized for specific time periods on a rotation basis.

All appropriate parameters and data were recorded for the survey. These data sheets have been included in the Appendix of this report.

### Results

The two prairie dog towns located within 0.5 miles from the proposed disturbance of the 4<sup>th</sup> East Portal area surveyed were both active with prairie dogs although the populations appeared low. The "active" status of the burrows of the northern-most prairie dog town may have been more the

result of cottontail rabbits rather than prairie dogs. At the southern town the actual prairie dogs were observed near the burrows.

No burrowing owls were observed during the surveys. Additionally, no other signs of owls were observed such as molted feathers, cast pellets, prey remains, eggshell fragments or excrement at or near burrow entrances. For site-specific information about the survey, refer to the data sheets included in the Appendix of this report.

Two additional prairie dog towns were located at a distance greater than the regulated 0.5 miles, but were less than 1.0 mile from the 4<sup>th</sup> East Portal area. These towns were also visited briefly on two different occasions. One of these towns was active while the other one appeared inactive with prairie dog activity. Refer to data sheets included in the Appendix for more information of these towns.

### SENSITIVE SPECIES

No threatened, endangered, rare or otherwise sensitive wildlife species have been identified or are expected to exist in the 4<sup>th</sup> East Portal area. Wildlife geographical databases from DWR were also consulted for the 4<sup>th</sup> East Portal study area to confirm these findings. Nonetheless, there are several plant species that had *low to moderate* potential of existing in the study area. Table 2 shows a list of those species that have been federally listed as threatened or endangered.

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JUN 03 2002

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MAY 24 2005 8:50AM

MAY 24 '05 09:48PM  
No. 0410 P. 6/9

The 4th East Portal area was surveyed in early April 2002 for the presence of the species shown in Table 2. None of the taxa were found at that time. Due to the growth stage and phenologic considerations of the plants, early April was *not* the most ideal time for field investigations for most of the species listed on the tables. Therefore it was recommended that another field survey be conducted prior to disturbance - or between late-April and late-May depending on current seasonal conditions. This survey was conducted May 7-8, 2002. Table 3 shows additional plant species that have been considered to be sensitive by the USDA Forest Service (USFS), Bureau of Land Management (BLM) or have the potential be listed as such in the future. These species were also considered while surveys were being conducted for the threatened and endangered species.

**Table 2: Potential Threatened or Endangered Plant Species of the 4<sup>th</sup> East Portal Area at the Emery Deep Mine**

Scientific Name	Common Name	Status	Habitat of Occurrence	Potential
<i>Pedocactus winkleri</i>	Winkler Footcactus	T	Salt desert shrub communities between 4700-5210 ft	L-M
<i>Pedocactus deepahli</i>	Deepahli Footcactus	E	Open PJ on limestone gravels at 6000 ft to 6200 ft elevations.	L-M
<i>Schoenaramba barnabyi</i>	Barnaby's schoenaramba	E	Mixed sphaerals, erigeronum, and sphaera communities on the Chinle Formation at ca 5990 ft to 6510 ft elevations in Emery and Wayne counties.	L
<i>Salsolanthe wrightii</i>	Wright Fishhook Cactus	E	Salt desert shrub to PJ communities at 4700 ft to 6120 ft elevations on Maraca Shale.	L-M
<i>Townsendia spica</i>	Last Chance Townsendia	T	Salt desert shrub and PJ on clay or clay silt soils of the Arapahoe and Maraca Shale between 6100 ft and 6000 ft elevations.	L-M

E = Federal Protection, Endangered  
 T = Federal Protection, Threatened  
 L = Low Potential of Occurrence  
 M = Moderate Potential of Occurrence

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JUN 03 2002

DIV OF OIL GAS & MINING

MAY 24 2005 8:51AM

MAY 24 '05 09:48AM  
 No. 0410 P. 7/9

**Table 3: Additional Sensitive Plant Species of the 4<sup>th</sup> East Portal Area at the Emery Deep Mine**

Scientific Name	Common Name	Status	Habitat of Occurrence	Potential
<i>Astragalus donohovianus</i>	Bicknell milkvetch	PS	Sagebrush-grassland and PJ communities on the Mancos Shale Formation, volcanic gravel open gravelly or sandy levels, and barren stony hillsides between 5200 to 8000 ft elev. Garfield, Wayne, Piute, Garfield and Emery Counties.	L-M
<i>Astragalus eastwoodae</i>	Eastwood's milkvetch	PS	Mixed desert shrub and PJ communities at 4360 ft to 6220 ft elevation.	L
<i>Cryptantha jonesiana</i>	Jones' Cryptanth	PS	Mixed desert shrub and PJ communities at 5575 to 7400 ft elevations in Emery Co.	M
<i>Cryptantha greutzfeldii</i>	Greutzfeldt-flower	S (FS, BLM)	Mancos Shale in shade-sage and mat saltbush communities between 6260 ft and 6500 ft elevation in Carbon and Emery Counties.	L
<i>Hymenoxys acaulis</i> var. <i>nana</i>	Low hymenoxys	S (FS, BLM)	Ephedra, sagebrush, shade-sage and PJ communities on fine silty clay to clay loam soils between 4400-7120 ft	M
<i>Lomatium junceum</i>	Rush lomatium	S (FS)	Desert shrub, piñon-juniper, ponderosa pine, and Douglas fir communities from 5300 to 6200 ft elevation.	M
<i>Pentstemon marousii</i>	Marous Jones' pentstemon	S (BLM)	Shade-sage, mat saltbush, sagebrush and salt desert piñon-juniper communities in gravelly areas on Mancos Shale-derived clay from 5,560 to 6,560 ft elevation.	L
<i>Sphaeralcea parrotii</i>	Parrotia globe-mallow	S (BLM)	Zuccata-ephedra, shade-sage, artemisia, ephedra, gypsumiferous Mancos Shale (Tununk Member), Buckhorn Conglomerate, Curds sandstone, Entrada siltstone, Carmel, Kaipab limestone at 4000 ft to 6315 ft in Emery Grand, and Wayne Counties.	L

PS = Potential Sensitive (rare, needs further study)

FS = Forest Service

BLM = Bureau of Land Management

L = Low Potential of Occurrence

M = Moderate Potential of Occurrence

### Study Methods

To begin, a search was conducted in the research files at *Mt. Nebo Scientific, Inc.* for location and habitat information for the species listed in Tables 2 and 3. Additionally, all known collections and specimens were reviewed in the herbarium at Brigham Young University (BYU) for the

species. Next, known locations were visited in the field for the species listed in Table 1 with the exception of *Schoenocrambe barnebyi* (the potential of this species occurring in the proposed disturbed area was considered low). Visiting known locations at the time of the survey enabled the investigators to reevaluate the habitat of the species as well as note the current seasonal growth development and phenology of the plants.

Once the literature searches were conducted, herbarium work was done, and habitats were re-visited, a site-specific survey was conducted within the boundaries of the 4<sup>th</sup> East Portal area. To accomplish this a grid system was employed. Grid lines were spaced 5-6 meters apart. Intensive searches for the plants were conducted by walking the grid lines using a GPS instrument.

## Results

*None of the threatened, endangered or otherwise sensitive species shown in Tables 2 and 3 were found within the boundaries of the 4th East Portal area. One potential obstacle of the survey is the fact that, like the past three years, it has been a year of lower than normal annual precipitation patterns. Low precipitation or drought years can sometimes influence the phenology and other behavioral characteristics of plant species making them more difficult to locate.*

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