

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

February 18, 2010

TO: Internal File

THRU: Steve Christensen, Lead *SKC*

FROM: Joe Helfrich, Biologist *JH*

RE: Burrowing Owl Mitigation Plan, Consolidation Coal Company, Emery Deep Mine, Permit # C/015/0015 Task # 3466

SUMMARY:

On February 3rd the Division received a Burrowing Owl mitigation plan for Consolidation Coal Company's Emery Deep Mine. The plan was developed in conjunction with the December 9th site visit to the location where a Burrowing Owl was previously observed utilizing a White Tailed Prairie dog burrow. Members from Consol, the mine, state and federal wildlife agencies, DOGM and Mount Nebo Scientific discussed conceptual plans to offset potential impacts from planned subsidence to the prairie dogs and potential nesting Burrowing owls. A draft mitigation plan was "E" mailed to Joe Helfrich from Pat Collins at Mount Nebo Scientific. The plan was then distributed by way of "E" mail to the following team members for comment: Dave Waller & Mike Glasson (BLM), Nicole Nielsen (DWR), Nathan Darnall (USFWS), and Ingrid Wieser (DOGM). Revisions were made accordingly and the plan was submitted to the Division for review. This memo will include a review of the proposed mitigation plan.

TECHNICAL MEMO

TECHNICAL ANALYSIS:

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

The permittee has developed a mitigation plan to provide additional burrowing habitat for the White Tailed Prairie dog and Burrowing Owl and determine if planned subsidence impacts natural and artificial burrows. Additionally, DOGM and OSM will attempt to determine occupancy and burrow integrity with the use of a bore hole camera. 7 artificial burrows will be placed at locations near the owl sighting, in and adjacent to the predicted subsidence zone.

The proposed plan also includes: "Surveys & Monitoring

A survey will first be conducted in the Miller Tract area in March 2010. The purpose of the survey will be to assess the activity level of the resident prairie dogs and to monitor any activity of burrowing owls returning from their southern migration to choose potential nesting sites.

Surveys will also be conducted in early and late April 2010 to monitor the prairie dogs and burrowing owls.

Finally, monitoring will be conducted 10 days prior to and following subsidence in an attempt to record the impacts to the owls [that is, if subsidence occurs during the critical nesting period (March 1 – August 31)]."

According to Nathan Darnall "Subsidence may collapse burrows used by white-tailed prairie dogs and individual dogs may be killed; however, planned subsidence may have minimal impact on burrows due to the way the land is expected to "fall." This should minimize the impact on prairie dogs, but the effects of subsidence on burrows are an unknown at this time. If burrows collapse, prairie dogs can dig new burrows or may be able to reopen collapsed burrows. Finally, because of the population size of the resident prairie dogs in the Miller Tract area (as well as their capability to adapt and dig additional burrows) little impact is expected by subsidence on the overall population in this area. Still, data will be collected to address the uncertainties about the effects of subsidence on burrows and the prairie dog colony."

Currently there is little known about the effects of subsidence on Prairie dogs or nesting Burrowing owls. The proposed monitoring regimen should provide adequate data to assess potential impacts. Again Nathan Darnall "Any data gathered about burrow collapse, numbers killed or impacts to the colony would be useful if the white-tailed were ever listed under the Endangered Species Act.

RECOMMENDATIONS:

The application is recommended for approval.

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