



United States Department of the Interior  
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE  
LINCOLN PLAZA  
145 EAST 1300 SOUTH, SUITE 404  
SALT LAKE CITY, UTAH 84115

cc. Paul  
Down

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In Reply Refer To

(CO/KS/NE/UT)

September 19, 2000

OFFICE OF  
OIL AND GAS MINING

Mr. Darron Haddock, Permit Supervisor  
Utah Division Oil, Gas, and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

*Processing*

RE: Section 7 Consultation on the Wild Horse Ridge Mine application, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025-SR98(1)

Dear Mr. Haddock:

The U.S. Fish and Wildlife Service (Service) has reviewed your letter of September 11, 2000. We concur with your "not likely to adversely affect" determination for threatened and endangered species.

Potential impacts to proposed or listed species from mining activities have been previously addressed in the Service's September 24, 1996 Biological Opinion and Conference Report on Surface Coal Mining and Reclamation Operations under the Surface Coal Mining and Reclamation Act of 1977. As part of the terms and conditions of this BO, the regulatory authority must implement and require compliance with any species-specific protective measures developed by the Service field office and the regulatory authority. No species-specific protective measures are considered necessary for the subject project.

Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered. Only a Federal agency can enter into formal Endangered Species Act section 7 consultation with the Service. A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such a designation. The ultimate responsibility for compliance with ESA section 7, however, remains with the Federal agency.

As you are aware, the peregrine falcon was removed from the federal list of endangered and threatened species per Final Rule of August 25, 1999 (64 FR 46542). Protection is still provided for this species under authority of the Migratory Bird Treaty Act (16 U.S.C. 703-712) which makes it unlawful to take, kill, or possess migratory birds, their parts, nests, or eggs. When taking of migratory birds is determined by the applicant to be the only alternative, application for

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federal and state permits must be made through the appropriate authorities. For take of raptors, their nests, or eggs, Migratory Bird Permits must be obtained through the Service's Migratory Bird Permit Office in Denver at (303) 236-8145.

We recommend use of the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* which were developed in part to provide consistent application of raptor protection measures statewide and provide full compliance with environmental laws regarding raptor protection. Raptor surveys and mitigation measures are provided in the Raptor Guidelines as recommendations to ensure that proposed projects will avoid adverse impacts to raptors, including the peregrine falcon.

We understand that you are developing a raptor habitat enhancement project for the Bear Canyon Mine in coordination with the Utah Division Wildlife Resources. We commend your ongoing efforts to ensure protection for raptor species during coal mine development.

We appreciate your interest in conserving endangered species and migratory birds. If further assistance is needed or you have any questions, please contact Laura Romin, Wildlife Biologist, at (801) 524-5001 extension 142.

Sincerely,



for Reed E. Harris  
Utah Field Supervisor

cc: Sandy Vana-Miller, Office of Surface Mining, 1999 Broadway, Suite 3320, Denver, CO 80202