



State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

August 15, 2005

Charles Reynolds, Resident Agent
Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528

Subject: Required "Mitigation" Plans for Enhancement of Degraded Big Game Habitat, Placement of Man-Made Raptor Nests or Prey Base Study, Bear Canyon Mine, Co-Op Mining Company, C/015/0025, Outgoing File

Dear Mr. Reynolds:

On December 18, 1998, the Division received a significant revision from Co-Op Mining Company for the Bear Canyon Mine for the addition of Federal Leases U-020668 and U-38727 and fee coal. As part of the coordination efforts of the Division with Utah Division of Wildlife Resources (DWR), United States Fish and Wildlife Service (USFWS), and the United States Forest Service, Manti La Sal National Forest (USFS), the agencies determined that this project would affect wildlife habitat for big game and raptor species.

DWR often recommends a ratio of 3:1 "mitigation" to disturbance for big game habitat losses, and the USFS recommends a ratio of 4:1. For this project, the agencies agreed that Bear Canyon Mine would not be required to adhere to these ratios, but would be responsible for "mitigation" projects approved by the agencies.

On March 6, 2001, the agencies made a recommendation to Charles Reynolds (Co-Op Mining Co.) that would combine "mitigation" efforts for big game and raptor habitat losses. This recommendation included enhancement of degraded habitat in a pinyon/juniper community that would increase jackrabbit and cottontail rabbit populations, construct two or three golden eagle nests at least one-half mile from human disturbance areas, and to develop and implement a raptor prey base study.

During the March 6, 2001 meeting, Mr. Reynolds agreed to have a consultant prepare a proposal pending the development of the goals and objectives of the prey base study recommended by the agencies. The Division incorporated this agreement in the MRP on July 3, 2001. Three years later, the Division still had not received the required plans for either the big game or raptor "mitigation"

Charles Reynolds

Page 2

August 15, 2005

projects. The agencies encouraged the Permittee to design and implement the raptor prey base study portion of the mitigation agreement by sending Co-Op Mining Company *guidelines* for the study (see Division letter dated April 16, 2004).

As of August 15, 2005, the Division has not received the required “mitigation” plans from the Permittee for the enhancement of degraded big game habitat, placement of man-made raptor nests, or raptor prey base study.

These plans must include the expected benefits of the projects, project goals and procedures, processes to implement the projects, implementation date(s), overseeing agency and contacts, and project-related locations (range, township, and sections). The Division, in consultation with DWR, USFS and FWS, will review these plans.

The Permittee must submit these plans no later than September 30, 2005 or compliance actions may be taken. If you have any questions, please call me.

Sincerely,

Pamela Grubaugh-Littig
Permit Supervisor

an
O:\015025.BCN\FINAL\PBWarningLetter.doc



State of Utah

Department of
Natural ResourcesROBERT L. MORGAN
*Executive Director*Division of
Oil, Gas & MiningLOWELL P. BRAXTON
*Division Director*OLENE S. WALKER
*Governor*GAYLE F. McKEACHNIE
Lieutenant Governor

April 16, 2004

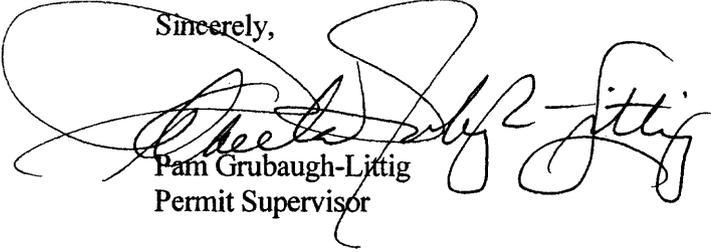
Mark Reynolds
Co-Op Mining Company
P.O. Box 1245
Huntington, Utah 84528Re: Protocol for Raptor Prey Base Study, Co-Op Mining Company, Bear Canyon Mine, C/015/0025, Outgoing File

Dear Mr. Reynolds:

The Division has attached a protocol for the raptor prey base study that Bear Canyon Mine has agreed to conduct. The Division along with DWR and USFWS developed this protocol during a meeting on February 25, 2004. The intent of the protocol is to provide the consultant with guidelines for the study.

If you have any questions concerning the protocol for the prey base study, please contact Jerriann Ernstsens at (801) 538-5214 or me at (801) 538-5268.

Sincerely,


Pam Grubaugh-Littig
Permit Supervisor

an

cc: Jerriann Ernstsens, DOGM
Joe Helfrich, DOGM
Paul Baker, DOGM
Diana Whittington, USFWS
Tony Wright, DWR
Chris Colt, DWR

O:\015025.BCN\FINAL\BearCanPreyBaseCovLet.doc

THE BEAR CANYON MINE RAPTOR PREY BASE PROTOCOL

Meeting Information

Date: February 25, 2004

Team: DOGM - Jerriann Ernstsen, Joe Helfrich, and Paul Baker, USFWS - Diana Whittington, and DWR - Tony Wright and Chris Colt.

Outcome: On February 25, 2004 biologists from DOGM, USFWS, and DWR met to draft strategies for the raptor prey base study. The information below is the final draft of the protocol for the study. The Permittee must provide this protocol to the consultant(s) conducting the study. The consultants must work with the agencies and follow the protocol.

History

Bear Canyon Mine received DOGM authorization to construct and operate the Wildhorse Ridge mine portals and surface facilities in 1999. DWR determined that the surface disturbance was within 0.5 mile of a Redtail Hawk nest. The Permittee agreed to mitigate the nest by conducting a raptor prey base study.

Goals

There are many energy-development projects in Utah. These projects include mitigation efforts such as seasonal closures, disturbance buffers, habitat improvements, and reclamation. Biologists typically recommend mitigation and reclamation guidelines that are ecologically and biologically sound for most projects. The team, however, is concerned that these guidelines may not provide maximum returns for projects at higher elevations.

DWR defined that the goal of the prey base study is to collect data on the foraging patterns of higher elevation (7,000 to 9,000') raptors. The team believes that the results from this study may help generate improved guidelines for raptor-related mitigation and reclamation. For example, what if higher elevation raptors forage in the valleys instead of near nesting sites? Acting on incorrect assumptions, a biologist might recommend a mitigation project for higher elevation sites rather than preferred valley locations.

The results may also help biologist recommend plant species that would attract prey and potentially maintain or raise the prey base populations.

Financial Support

The Bear Canyon Mine will provide financial support by hiring a contractor(s) to conduct the prey base study.

Responsible Party

Bear Canyon Mine will hire a consultant(s) to conduct the study. The Permittee must consider the following when selecting a consultant(s):

- Experience climbing/repelling in the canyon region.
- Access to lab facilities equipped with safety hoods.
- Experience separating bones and other hard remains from hair and other pellet material using sodium hydroxide.

The Permittee must submit to DOGM names of preferred consultants who might lead/conduct the study. It is up to the Permittee to make the final selection.

Study Question

The study question is "What are the higher elevation raptors consuming?"

Study Subjects

The study will include collecting data on Red Tail Hawks and Golden Eagles nesting in canyon regions. The consultant(s) will collect data on nests in trees and on cliff rims located in canyon regions. The study will not include collecting data on nests located in forest regions.

Focus Area

Area of study will range from Straight Canyon to Gordon Creek.

Study Parameters

The contractor(s) must:

- Coordinate with DOGM and DWR to obtain timing and location for all data retrieval events.
- Survey a minimum of 10 active nests.
- Obtain the following data:
 - Remains below nest sites.
 - Nesting chicks (requires rappelling cliffs and climbing trees to observe).
 - Nests following fledging (requires rappelling cliffs and climbing trees to observe).
- Compile the scientific report adhering to the parameters described below.

Timing

Few raptors nest in years when prey populations are low due to drought or other causes. Yearly flyovers will supply DWR with the information necessary to select the best year to conduct the study. DWR will use bird and active nest counts as indicators. Immediately following flyovers, DWR will contact DOGM to let them know whether to initiate the study.

Because of the “on-the-spot” decision to begin this study, the Permittee must have previously narrowed the names of preferred consultants. DOGM understands that it may be necessary to postpone this study if consultants are unavailable given the short notice.

Duration

The study will last for one nesting/fledging season. The consultant(s) will collect and compile the data, write consolidated report (field and lab), and submit a copy of the report to the Permittee, DOGM, DWR, and USFWS. The consultant(s) will submit the report no later than the end of the same year as the study.

Report Requirements

The consultant(s) will compile a scientific report that includes an introduction, material and methods, results, and summary.

The material and methods section must be comprehensive and cover field surveys, lab analysis, and quantitative analysis. There is a possibility that the team may repeat this study on a larger scale in the future. To provide repeatability, therefore, the consultant(s) must submit a precise description of material and methods.

Quantitative data analysis must include:

- Number of pellets and number of prey items collected under each nest site.
- Total number of individual organisms collected in the remains and minimum number of individuals represented in pellets.
- Estimates of biomass by species (primary prey) or other taxonomic group (secondary) in the diet based on average live weights of museum specimens. Minor prey items may be pooled into another category.
- Identification to the genus or family level of individual organisms considered primary to the total remains.

The results section must include a narrative that is supported by tables and graphs.

Specifics include:

- Tables with the analyzed and raw data sets.
- Topographic map showing the study area and nest locations.
- Pictures of all nests/birds and samples of forage remains.

Post-study Meeting

DOGM will coordinate a meeting after the team has reviewed the report. The goal is to develop new mitigation and reclamation recommendations based on the results of the raptor study. Regulating agencies will encourage coal companies and other energy-development industries to implement these recommendations.

For Bear Canyon Mine, a report that meets the above requirements will fully meet their mitigation agreement.

Although this study will provide valuable information, the team is hopeful that it will also serve as a “seed” for further studies. The team realizes that more data is necessary in order to avoid incorrect conclusions confounded by seasonal variations in prey base populations.

O:\015025.BCN\FINAL\BearCanPreyBaseProtocol.DOC