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# CO-OP MINING COMPANY

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November 28, 2007

Coal Program  
Utah Division of Oil, Gas & Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

*Jacoby OF*  
*e/015/0025*  
*#2876*

To Whom It May Concern,

**Re: Application to add the Golden Eagle Mitigation Plan for CW Mining to the Bear Canyon MRP, Bear Canyon Mine, ACT/015/025**

Enclosed is 3 clean copies of our Golden Eagle Mitigation Plan for CW Mining.  
If you have any questions, please call me at (435) 687-5238.

Thank You,

*Melissa Reynolds*  
Melissa Reynolds

Enclosure(s)

RECEIVED  
NOV 28 2007  
DIV. OF OIL, GAS & MINING

## APPLICATION FOR COAL PERMIT PROCESSING

Permit Change  New Permit  Renewal  Exploration  Bond Release  Transfer

**Permittee:** CO-OP MINING COMPANY

**Mine:** BEAR CANYON MINE

**Permit Number:** ACT/015/025

**Title:** Golden Eagle Mitigation Plan for CW Mining

**Description,** Include reason for application and timing required to implement:

To add the Golden Eagle Mitigation Plan for CW Mining to the Bear Canyon MRP

**Instructions:** If you answer yes to any of the first eight (gray) questions, this application may require Public Notice publication.

- Yes  No
1. Change in the size of the Permit Area? Acres: \_\_\_\_\_ Disturbed Area: \_\_\_\_\_  increase  decrease.
  2. Is the application submitted as a result of a Division Order? DO# \_\_\_\_\_
  3. Does the application include operations outside a previously identified Cumulative Hydrologic Impact Area?
  4. Does the application include operations in hydrologic basins other than as currently approved?
  5. Does the application result from cancellation, reduction or increase of insurance or reclamation bond?
  6. Does the application require or include public notice publication?
  7. Does the application require or include ownership, control, right-of-entry, or compliance information?
  8. Is proposed activity within 100 feet of a public road or cemetery or 300 feet of an occupied dwelling?
  9. Is the application submitted as a result of a Violation? NOV # \_\_\_\_\_
  10. Is the application submitted as a result of other laws or regulations or policies?  
*Explain:* \_\_\_\_\_
- Yes  No
11. Does the application affect the surface landowner or change the post mining land use?
  12. Does the application require or include underground design or mine sequence and timing? (Modification of R2P2)
  13. Does the application require or include collection and reporting of any baseline information?
  14. Could the application have any effect on wildlife or vegetation outside the current disturbed area?
  15. Does the application require or include soil removal, storage or placement?
  16. Does the application require or include vegetation monitoring, removal or revegetation activities?
  17. Does the application require or include construction, modification, or removal of surface facilities?
  18. Does the application require or include water monitoring, sediment or drainage control measures?
  19. Does the application require or include certified designs, maps or calculation?
  20. Does the application require or include subsidence control or monitoring?
  21. Have reclamation costs for bonding been provided?
  22. Does the application involve a perennial stream, a stream buffer zone or discharges to a stream?
  23. Does the application affect permits issued by other agencies or permits issued to other entities?

**Please attach four (4) review copies of the application. If the mine is on or adjacent to Forest Service land please submit five (5) copies, thank you.** (These numbers include a copy for the Price Field Office)

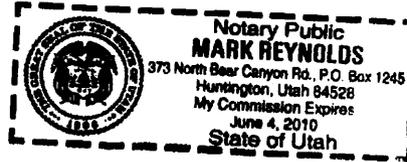
I hereby certify that I am a responsible official of the applicant and that the information contained in this application is true and correct to the best of my information and belief in all respects with the laws of Utah in reference to commitments, undertakings, and obligations, herein.

Charles Reynolds  
Print Name

Charles Reynolds, President, 11/28/07  
Sign Name, Position, Date

Subscribed and sworn to before me this 26 day of Nov, 2007

Mark Reynolds  
Notary Public



My commission Expires: Utah 6-4, 2010 } ss:  
Attest: State of \_\_\_\_\_ }  
County of Emery

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## Appendix 30

### **Golden Eagle Mitigation Plan for Fish Creek**

# CW Mining

## Golden Eagle Mitigation Plan for Fish Creek

### **Proposed Action**

In the summer of 2008, a Long wall panel will be mined under a cliff escarpment that falls within the 22.5 degrees angle of draw. The normal limit to subsidence in this area is closer to 15 degrees angle of draw. This escarpment has a golden eagle nest # 921 on it. The potential of subsidence, cliff failure and ultimately loss of the nest exists. From the summer of 2008 through tentatively the spring of 2011 long wall mining will extract coal that potentially could affect five other golden eagle nests. The angle of draw is within 22.5 degrees on only one other nest, #907. The remaining four nests are within 100 feet of being inside the 22.5-degree angle of draw. Due to the proximity to the potential subsidence, these nests are being evaluated at CW Mining's discretion.

### **Disturbance Potential**

As of July 5, 2007 FWS regulation (50CFR Part 22.3): "Disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

Disturbance could occur if the nest was active at the time of subsidence and the nest was abandoned or the nest and young or eggs were lost as a result of the subsidence. Intentional disturbance may be the action taken to attempt to prevent the use of a nest with high probability of failure during the nesting season due to mining activities. This intentional disturbance would be an attempt to encourage nesting golden eagles to select alternate nests within their territories allowing for production of eagles. Any disturbance during the nesting season would require a take permit from the USFWS. Any disturbance occurring outside of the nesting season could be considered an incidental take and will require USFWS determination on a case-by-case basis.

This mitigation plan will frame the steps to be taken to 1) prevent the loss of individual eagles including eggs, 2) reduce the chance of nest productivity loss by discouraging affected nest use early in the courtship/nest selection period when overlapping with potential subsidence, 3) determine when a nest take permit should be applied for and when the nest take could be an incidental take. USFWS is the regulatory agency making this determination and final decisions regarding populations and permitting will lie with the Regional Permits Office.

### **Status of the Local Golden Eagle Population**

A dynamic equally important to protecting individual eagles is to consider the need to protect the local breeding population as a whole. Personal communication with Tony Wright, UDWR Sensitive Species Biologist, indicates due to recent increase in rabbit populations Golden Eagles have taken a slight upturn in reproductive success after a long period of depressed reproductive success. Steven Slater, a

Conservation Biologist for Hawk Watch International, has reviewed the data set for the nests in question and has recommended territory buffers around nest clusters. There appears to be three territories represented by the nests in question. (Figure #1, #2) Nest 921 is one of four nest that make up one territory that has not been recently active. Nest 901,902, 903, and 904 encompass the second territory that has been active in the last 9 years and is active this year. Nest 907 could possibly be part of a territory that has been recently active or part of a territory that has not been recently active. Notice Nest 907 falls on the outer edge of the active territory yet in the center of an inactive territory. Regardless, the number of nests and territories in close proximity indicate that there is an abundance of golden eagle habitat in the area. Nest densities are a reflection of two important habitat components. First is available prey base to support adults and young. The second is available suitable nest sites. Prey base is extremely variable and in a constant state of flux. Suitable nest sites are finite and in the area in question, most suitable nest sites have a nest built on them (Leroy Mead DWR Biologist personal communication).

### **Mitigation Matrix**

This matrix is designed to be a guide for the coal producer to use in his extraction planning to assist with the determination of when mitigation and or take permits will likely be required. If the loss of a nest occurs as an incidental take, discussions with the Buffers Group and particularly the USFWS will be needed with an in-depth analysis of nesting territories to determine if and what mitigation should be completed. Loss of each nest is important and is significant to the long-term nest productivity.

To filter what actions need to be taken on which nest the following matrix has been developed. This matrix was designed for this situation but with minor adjustments for unique circumstances, this matrix could be used for any subsidence disturbance proposed to raptor nesting habitat.

Matrix point assignments will be as follows:

- 1) Two points will be given for all nests that fall within the 0-15 degree angle of draw.
- 2) One point will be given for all nests that fall within the 16-22.5 degree angle of draw.
- 3) One point will be given for each year that a nest has been classified as active over the last seven years. The years in which no survey was completed on the nest status will be given one point if either the proceeding or following year indicated an active status.
- 4) Two points will be given if the nest is active on the year proceeding the planned undermining.
- 5) One point will be given if the nest is tended the year proceeding the planned undermining and no other nest within the territory (fig. 1) is active that year.
- 6) One point will be given for escarpments with low instability faces classification based on Malekis study. (2001)
- 7) Two points will be given for escarpments with medium instability faces classification based on Malekis study.

- 8) Three points will be given for escarpments with high instability faces classification based on Malekis study.
- 9) One point will be given if the nest is part of a territory that has fewer than three nests making up the territory.

<b>Nest ID#</b>	<b>Angle of Draw</b>	<b>Nest Status</b>	<b>Nest Status Year Prior Undermining</b>	<b>Malekis Classification</b>	<b>Number of Nest in Territory</b>	<b>Total Score</b>
GE921	2	0	0	0	0	2
GE901	0	2*	0	0	0	2
GE902	0	0	0	0	0	0
GE903	0	1	0	0	0	1
GE904	0	0	0	0	0	0
GE907	2	0	0	0	0	2

### **Proposed Mitigation Based Score**

This Matrix and its associated point system will go in affect when the proposed undermining will occur in February through July. If undermining occurs outside of these months, any disturbance to the nest would likely be considered an incidental take and would require USFWS determination on a case-by-case basis.

Once the dates of undermining indicate the matrix is in effect, an appropriate mitigation will be assigned to matrix scores. For a score of 3 and above the coal producer will call together a committee comprising representation from at a minimum of; the coal company, the regulatory agencies (USFWS, DOGM), the surface managing agencies (BLM, USFS, TLA), and any other expertise (UDWR Hawk Watch International) needed to analyze the nesting territories and the proposed impact to determine if a take permit should be applied for from USFWS Regional Permits Office. The wildlife Buffers team is a logical source for this committee. Calling this committee together will be the operators responsibility. In addition to discussing the need for the take permit, appropriate and effective mitigating actions should be discussed. Mitigation actions resulting in discouragement of the eagles from nesting at the affected nest site, creation of manmade nest sites, prey base studies, prey habitat enhancement projects, and raptor data analysis will all be considered in the mitigation discussion.

If at anytime any of the mitigation is deemed unsafe for people alternative measures will be considered. All eagle nests that are within the subsidence zone of the proposed action will have a detailed description formulated on the next available raptor survey. This description will include nesting structure, nesting material, identification of potential alternative nesting sites, and photos recording nest and alternate nest sites. A complete survey history of the nest will also be included to assist in evaluating the potential for nesting discouragement for the territory in question.

A completed site specific plan accompanied with the filled in matrix will be submitted to appropriate agencies 9 months prior to undermining the nest.

Immediately following the next helicopter nest survey, a report on the status of the nest and its condition will be submitted to UDOGM along with photos to be included

in the mine plan. A narrative of actions taken and success or failure of the actions noted. The nest should be monitored for a minimum of three years post undermining longer if possible to better evaluate effects of mitigation to assist managers in future mitigation decisions.

**Example of the Matrix in Use**

Nest #921 will be the first nest to be evaluated using the matrix.

<b>Nest ID#</b>	<b>Angle of Draw</b>	<b>Nest Status</b>	<b>Nest Status Year Prior Undermining</b>	<b>Malekis Classification</b>	<b>Number of Nest in Territory</b>	<b>Total Score</b>
GE921	2	0	0	0	0	2

Nest #921 is within 15-degree angle of draw so receives 2 points

Nest # 921 has not been active in the last seven years, although it was not surveyed in 2003 and 2005. Because the nest was not active either the year prior or the year after no points are awarded for nest status.

Nest #921 was not active in 2007 which is the year preceding the undermining. No points are awarded.

Nest # 921 is on a cliff face that is classified as stable in Malekis classification. No points are awarded.

Nest # 921 is part of a territory identified by Hawk Watch International that is comprised of four known nests. No points are awarded.

Nest # 921 has a total score of two. This does not trigger the mandatory committee meeting.

*Although no further action is required unless undermining is delayed and nest status changes It would be a good idea to communicate through the wildlife buffers group each nest to be undermined and insure the matrix is completed with the most up to date information.*