



United States Department of the Interior
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

In Reply Refer To

FWS/R6
ES/UT

February 6, 2003

RECEIVED

FEB 11 2003

DIV. OF OIL, GAS & MINING

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

RE: Informal section 7 Endangered Species Consultation, 1996 Biological Opinion
Coordinated Review Link Canyon Portal, SUFCO Mine, Sevier County

J. [unclear]
1/10/02
Copy Bacon
[unclear]
Susan
(2-sided)

Dear Ms. White:

The U.S. Fish and Wildlife Service (Service) has reviewed your letters of January 8, 2003, and January 16, 2003. 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.

Based on the information that this project does not contain suitable habitat we concur with your "no effect" determination for the Utah prairie dog, bald eagle, Southwestern willow flycatcher, Last Chance Townsendia, and Wright fishhook cactus. Therefore, no endangered species-specific protective measures for these five are considered necessary for the subject project.

The protective measures for the Mexican spotted owl are outlined in your January 16, 2003 letter, and include:

- The mine will conduct the proposed work outside the Mexican spotted owl breeding season of March 1 - August 31.
- Once the portal is constructed the facilities will be accessed primarily through the mine, so there should be little or no surface disturbance.

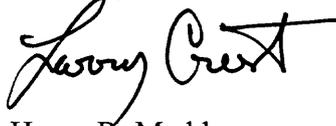
Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

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.

We commend your agency's continued efforts to conserve endangered and sensitive species, including raptors. In this instance, we appreciate that the permittee has committed to conduct activities outside the critical nesting and rearing times for golden eagles, the nests of which occur outside a half-mile radius of the portal. As you are aware, we have developed and recommend the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* to assist agencies and individuals with raptor-sensitive project planning. Seasonal and spatial buffers of inactivity are recommended for raptor nest sites.

We appreciate your interest in conserving endangered species. If further assistance is needed or you have any questions, please contact Diana Whittington, at (801) 975-3330 extension 128.

Sincerely,



for Henry R. Maddux
Utah Field Supervisor

cc: OSM - Denver (Attn: Ron Sassaman)
UDWR - Salt Lake City (Attn: Frank Howe)