

**APPENDIX B:**

LETTER FROM THE U.S. FISH AND WILDLIFE SERVICE  
REGARDING THE COYOTE BASIN 3-D SEISMIC PROJECT

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# 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  
04-0236

June 17, 2004

Roger Schoumacher  
Program Manager  
TRC Mariah Associates Inc.  
605 Skyline Drive  
Laramie, Wyoming 82070-8909

Dear Mr. Schoumacher:

The U.S. Fish and Wildlife Service (Service) has reviewed your letter of May 20, 2004 announcing your intent to prepare an EA on the Coyote Wash 3-D Seismic Exploration project, Uintah County, Utah. The purpose of the project is to conduct a three-dimensional (3-D) geophysical survey encompassing approximately 80 mi<sup>2</sup>. This project will employ vibrator buggies and shot holes to generate vibrations that will be recorded with geophones. Information from the project will be used to define subsurface geology and provide information to determine optimum locations for drilling natural gas wells. We are providing the following comments for your consideration in your EA.

Consistent with NEPA regulation 40 CFR § 1503.1(a)(1) that the action agency shall obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved, we are responding to your request for concerns and comments on this EA/EIS. In Section 1 of this letter we identify issues that should be addressed in the NEPA compliance document for this project. Section 2 of this letter addresses your responsibilities under section 7 of the Endangered Species Act (ESA) of 1973, 16 U.S.C. § 1536.

Section 1. The proposed use of buggy-mounted drills may increase access and disturbance to previously isolated areas with high wildlife value. Therefore, the potential long-term effects of increased dispersed recreation or enhanced access (camping, hiking, off-road vehicles) on wildlife habitat (disturbance of migration corridors, loss of vegetation) should be considered in project plans. Measures should be taken to prevent increased access to sensitive wildlife areas.

The EA should also identify the amount, location, and timeframe of temporary disturbance that could result from the proposed action. Displacement of wildlife across a large area during critical times, such as breeding, could prove a significant impact. If wildlife are displaced, it is likely that the area to which they are displaced is inhabited by other wildlife or disturbed by other ongoing activities. Depending on the season and species, displacement could lead to nest

abandonment, inter and intra-specific competition, reproductive failure, and possible mortality. In addition, if there are other projects in the area, alternative sites for displaced wildlife will be increasingly limited. Cumulative effects of other projects and activities to wildlife and wildlife habitat should be taken into account in project plans.

The EA should specifically evaluate and plan mitigation for potential project impacts to migratory birds. Habitat impacts for species on the Service's 2002 list of Birds of Conservation Concern should be evaluated in project plans. To help meet responsibilities under Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds), the BLM should only permit activities outside critical breeding seasons for migratory birds, minimize temporary and long-term habitat losses, and require mitigation for unavoidable habitat losses.

The project area may contain important wintering and brooding habitat for Greater sage grouse. Habitat fragmentation is identified as one of the factors contributing to sage-grouse population declines (Braun 1998). To minimize the impacts of resource developments in sage-grouse habitats, actions that may fragment contiguous sage-grouse habitat or connectivity between seasonal habitats (breeding, nesting, early or late brood-rearing habitats) should be avoided. Areas that dually provide lekking/nesting habitats and wintering habitats should be avoided during critical life history stages. Surveys and mapping should be completed to identify breeding, nesting, brood-rearing, and/or wintering habitats; monitoring to identify these habitats and grouse populations is essential. Further guidelines to minimize impacts to sage grouse, including seasonal and spatial buffers and habitat restoration recommendations, can be found in: the Utah Division of Wildlife Resources' *Strategic Plan for Management of Sage Grouse, 2002*, Publication No. 02-20 and in *Guidelines to Manage Sage Grouse Populations and Their Habitats* (Connelly et al. 2000).

As with all projects that will create surface disturbance, there is potential for introduction and spread of invasive species. All possible measures should be taken to prevent the introduction or further proliferation of noxious species. Monitoring and control efforts should be implemented following construction. Re-vegetation seed mixes should, to the extent practicable, contain native plants or non-natives that will not naturalize.

If the project area contains wetlands or riparian areas, we recommend measures be taken to avoid any wetland losses in accordance with Section 404 of the Clean Water Act, Executive Order 11990 (wetland protection) and Executive Order 11988 (floodplain management) as well as the goal of "no net loss of wetlands." Riparian areas are the single most productive wildlife habitat type in North America. They support a greater variety of wildlife than any other habitat. Riparian vegetation plays an important role in protecting streams, reducing erosion and sedimentation as well as improving water quality, maintaining the water table, controlling flooding, and providing shade and cover. In view of their importance and relative scarcity, impacts to riparian areas should be avoided. In addition, creation of ruts in areas subject to periodic flooding may provide breeding grounds for mosquitoes and increase the risk of West Nile virus. Project activities should be prohibited in wetlands, including marshes and playas, rivers and streams, and riparian woodlands.

Proposed mitigation strategies should be monitored, and all monitoring efforts should have measurable performance criteria, to be met within time frames appropriate to sensitive periods in the life histories of species of concern or recovery rates of site-specific vegetation and soil types, and 'triggers' or thresholds that require remedial action.

Section 2. Federal agencies have specific additional responsibilities under Section 7 of the ESA. To help you fulfill these responsibilities, we are providing an updated list of threatened (T) and endangered (E) species that may occur within the area of influence of your proposed action.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
UINTAH COUNTY		
Clay Reed-mustard	<i>Schoenocrambe argillacea</i>	T
Graham Beardtongue	<i>Penstemon grahamii</i>	C
Horseshoe Milkvetch	<i>Astragalus equisolensis</i>	C
Shrubby Reed-mustard	<i>Schoenocrambe suffrutescens</i>	E
Uinta Basin Hookless Cactus	<i>Sclerocactus glaucus</i>	T
Ute Ladies'-tresses	<i>Spiranthes diluvialis</i>	T
White River Beardtongue	<i>Penstemon scariosus</i> var. <i>albifluvis</i>	C
Bonytail <sup>4,10</sup>	<i>Gila elegans</i>	E
Colorado Pikeminnow <sup>4,10</sup>	<i>Ptychocheilus lucius</i>	E
Humpback Chub <sup>4,10</sup>	<i>Gila cypha</i>	E
Razorback Sucker <sup>4,10</sup>	<i>Xyrauchen texanus</i>	E
Bald Eagle <sup>3</sup>	<i>Haliaeetus leucocephalus</i>	T
Mexican Spotted Owl	<i>Strix occidentalis lucida</i>	T
Western Yellow-billed Cuckoo	<i>Coccyzus americanus occidentalis</i>	C
Black-footed Ferret <sup>6</sup>	<i>Mustela nigripes</i>	E
Canada Lynx	<i>Lynx canadensis</i>	T

T = threatened  
E = endangered  
C = candidate

<sup>6</sup> Historical range.

<sup>10</sup> Water depletions from any portion of the occupied drainage basin are considered to adversely affect or adversely modify the critical habitat of the endangered fish species, and must be evaluated with regard to the criteria described in the pertinent fish recovery programs.

<sup>3</sup> Wintering populations (only five known nesting pairs in Utah).

<sup>4</sup> Critical habitat designated in this county.

The proposed action should be reviewed and a determination made if the action will affect any listed species or their critical habitat. If it is determined by the Federal agency, with the written concurrence of the Service, that the action is not likely to adversely affect listed species or critical habitat, the consultation process is complete, and no further action is necessary.

Formal consultation (50 CFR 402.14) is required if the Federal agency determines that an action is "likely to adversely affect" a listed species or will result in jeopardy or adverse modification of critical habitat (50 CFR 402.02). Federal agencies should also confer with the Service on any action which is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10). A written

request for formal consultation or conference should be submitted to the Service with a completed biological assessment and any other relevant information (50 CFR 402.12).

Candidate species have no legal protection under the Endangered Species Act (ESA). Candidate species are those species for which we have on file sufficient information to support issuance of a proposed rule to list under the ESA. Identification of candidate species can assist environmental planning efforts by providing advance notice of potential listings, allowing resource managers to alleviate threats and, thereby, possibly remove the need to list species as endangered or threatened. Even if we subsequently list this candidate species, the early notice provided here could result in fewer restrictions on activities by prompting candidate conservation measures to alleviate threats to this species.

Only a Federal agency can enter into formal Endangered Species Act (ESA) 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.

Your attention is also directed to section 7(d) of the ESA, as amended, which underscores the requirement that the Federal agency or the applicant shall not make any irreversible or irretrievable commitment of resources during the consultation period which, in effect, would deny the formulation or implementation of reasonable and prudent alternatives regarding their actions on any endangered or threatened species.

Please note that the peregrine falcon which occurs in all counties of Utah 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 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) 236-8171.

We recommend use of the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* (Romin and Muck, 2002) 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.

The following is a list of species that may occur within the project area and are managed under Conservation Agreements/Strategies. Conservation Agreements are voluntary cooperative plans among resource agencies that identify threats to a species and implement conservation measures to pro-actively conserve and protect species in decline. Threats that warrant a species listing as a sensitive species by state and federal agencies and as threatened or endangered under the ESA

should be significantly reduced or eliminated through implementation of the Conservation Agreement. Project plans should be designed to meet the goals and objectives of these Conservation Agreements.

Common Name

Scientific Name

UINTAH COUNTY

Colorado River Cutthroat Trout

*Oncorhynchus clarki pleuriticus*

If we can be of further assistance, or if you have any questions, please feel free to contact Diana Whittington of our office at (801) 975-3330 extension 128.

Sincerely,



for Henry R. Maddux  
Utah Field Supervisor

cc: BLM State Office – Attn: Ron Bolander  
UDWR – SLC and Vernal

## **Literature Cited**

Braun, C. E. 1998. Sage-grouse in Western North America: What are the problems? Proceedings of Western Association of Fish and Wildlife Agencies 78:139-156.

Connelly, J. W., M. A. Schroeder, A. R. Sands, and C. E. Braun. 2000. Guidelines to manage sage grouse populations and their habitats. Wildlife Society Bulletin 28:967-985.

Romin, L.A., and J.A. Muck. 2002. Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances. U.S. Fish and Wildlife Service., UT Field Office, Salt Lake City, UT.