

**APPENDIX F**

**CONSULTATION DOCUMENTS**

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# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Vernal Field Office

170 South 500 East

Vernal, UT 84078

(435) 781-4400 Fax: (435) 781-4410



IN REPLY REFER TO:

6841

UT-080

August 28, 2007

## Memorandum

To: Utah Supervisor, Utah Field Office, Ecological Services,  
U.S. Fish & Wildlife Services, Salt Lake City, Utah

From: Field Manager, Bureau of Land Management, Vernal, Utah

Subject: Request for concurrence with determinations of effects to endangered, threatened and candidate species and conclude Informal Consultation on Two wells (TW 18-9-15-21 and TW 14-17-15-21) within the Tumbleweed Unit (EA #UT-080-2005-201).

Attached is the draft Environmental Assessment for the proposed drilling project for review and comment. Pursuant with Section 7 of the Endangered Species Act of 1973, and in conformance with 50 CFR Part 402.14, we are requesting concurrence with the determination and conclusion of informal consultation on the project.

Informal consultation has taken place between the Service and the BLM regarding the impacts of the Proposed Action to threatened and endangered species Mexican spotted owl (*Strix occidentalis lucida*). There is also an affect to listed fish species mentioned in the EA, this action was formally consulted on resulting in a Biological Opinion for water depletion within the Green River basin (July 26, 2006). The EA includes an analysis of potential impacts to these species. This consultation is focused on affects to the Mexican spotted owl. Four other wells (3-4-15-21, 8-5-15-21, 3-9-15-21, and 15-8-15-21) are proposed within the EA, but two years of Mexican spotted owl surveys are needed before consultation can begin. The APDs for these four wells will not be approved until consultation has been completed.

### **Mexican spotted owl (*Strix occidentalis lucida*):**

The Mexican spotted owl (MSO) is federally listed as a threatened species. The MSO ranges from southern Utah and Colorado through the mountains of Arizona, New Mexico, and west Texas into the mountains of Central Mexico. MSOs in Utah are located in the Colorado Plateau Recovery Unit (RU), as described in the MSO Recovery Plan (USFWS 1995). Potential threats to MSO in the Colorado Plateau RU include recreation,

overgrazing, road development in canyons, catastrophic fire, timber harvest in upland forests, and oil, gas, and mining development (USFWS 2006).

In Utah, MSOs are a permanent resident that nests in the deep, sheer-walled, sandstone, or rocky canyons of the Green and Colorado River basins (VDRMP 2005). In southern Utah, MSOs have not been found above 7,200 feet' (cutoff for suitable habitat is considered 8,000 feet). MSOs in Utah forage mostly in canyon bottoms and benches, as well as along mesa tops, usually within a ½ mile of cliff edges (USFWS 2006), with woodrats being their primary prey (USFWS 1995).

The preferred nesting habitat of the species includes complex, thickly forested canyons, steep walled rocky canyons, uneven-aged, multi-storied mature, and/or old growth stands that have high canopy closure. In the northern portion of its range (Utah and Colorado), most Mexican spotted owl nests are in caves or on cliff ledges in steep-walled canyons (USFWS 2001). The project area is north of the species' known distribution in Utah (Willey 1995), and east of designated critical habitat.

The annual cycle for Mexican spotted owls begins on or around March 1 when males and females come together after the winter season to mate and initiate breeding (Rinkevich et al. 1995). Eggs are laid in late March or early April (Rinkevich et al. 1995). Successful breeding produces one to three young that hatch in early May; juveniles disperse from their parents' territory in September and October. Juveniles will use canyons, as well as a variety of other habitat types that occur between canyons during their dispersal (USFWS 2006).

On public lands, if active MSO nests are documented within the project area, drilling, detonation of explosives, surface-disturbing activities, and/or noise generating activities would be prohibited within a spatial and temporal buffer determined by the BLM, in coordination with the Utah Division of Wildlife Resources (UDWR) and the US Fish and Wildlife Service (USFWS). Furthermore, if nesting activity is confirmed but a nest location is not specifically identified, BLM, in coordination with UDWR and USFWS, will delineate a Protected Activity Center (PAC) and no drilling, detonation of explosives, surface-disturbing activities, and/or noise generating activities will occur within the designated PAC. The parameters and restrictions for continuation or discontinuation of the activity would be determined through Section 7 Consultation with the USFWS. If an active nest were documented on Tribal or State land, activities would be avoided within the SMA-authorized spatial and temporal requirements for MSO through consultation with the USFWS. These timing and spatial limitations around active nests would effectively eliminate potential adverse impacts from seismic activity on breeding and nesting MSOs.

Suitable habitat for Mexican spotted owl occurs in the Project Area canyons, based on the USFWS-adopted 1997 Mexican Spotted Owl Habitat Model and the more recent 2000 update of the model. Critical habitat has not been designated in the Book Cliffs RMP area, and the nearest critical habitat occurs in Desolation Canyon. There have been no confirmed sightings of the species within the Book Cliffs RMP area. However, in July and August of 1992, unconfirmed Mexican spotted owl observations were documented

along Meadow Creek just south of the Project Area. No sightings were documented during subsequent surveys conducted by the BLM during the early 1990s. The nearest nest was documented approximately 30 miles from the Project Area.

The upper Willow Creek drainage still has many mapped habitat polygons which are rated at fair or better. Several of these polygons (2-127, 2-130, 2-132 and 2-134) are within 0.5 miles of the proposed wells. Two complete field surveys covering the habitat polygons in question were completed in 2006 by Grasslands Inc. (for the Questar Winter Ridge Pipeline) and 2007 by Environmental Industrial Services. These surveys were reviewed and found to follow established protocols for Mexican spotted owl surveys for the proposed 18-9-15-21 and 14-17-15-21 wells and associated road and pipeline corridors.

No MSO were seen or heard during the 2006 or 2007 inventories. As such, MSO survey requirements for these two proposed wells and their proposed roads and pipeline corridors have been met. If more than four years elapse between the end of the two seasons of survey and the initiation of surface disturbing activities within the 0.5 mile buffer, then another complete inventory would be required prior to any surface disturbing activities.

For the proposed 3-4-15-21, 8-5-15-21, 3-9-15-21, and 15-8-15-21 no surface disturbing activities would be allowed within “good” and “fair” habitat designations until the end of the two survey seasons in accordance with USFWS protocol. If MSO are documented, BLM would consequently follow USFWS protocol for Protected Activity Center (PAC) establishment. With the exception of canyon habitat, well pad construction and drilling would be allowed within the 0.5 mile buffer after the first season of surveys is completed, outside of the timing restriction and only if no owls have been detected. The second season of surveys would still be required for these 0.5 mile buffer areas. If no owls have been detected at the completion of the two seasons of calling surveys, the timing restriction shown in Table 2-2 would no longer be required for the areas of “good” and “fair” habitat, or the 0.5 mile buffer. However, if more than four years have elapsed between the end of the two seasons of survey and the initiation of surface disturbing activities within the 0.5 mile buffer, then another complete inventory would be required prior to any surface disturbing activities.

Based on these survey and PAC commitments, there would be no effect on breeding, nesting or foraging MSO. Furthermore, as the Proposed Action would not include any development within the Willow Creek and Upper Bottom Canyon corridors, potential impacts to designated MSO habitat would be minimal. However, since MSO could potentially utilize “fair” and “good” habitats in or near the greater Project Area for future nesting sites, any surface disturbance within a 0.5 mile buffer of designated habitat (which includes the Tumbleweed Project Area) could potentially reduce the likelihood of the areas from being selected and used by MSO in the future.

Based on this assessment, BLM has determined that the Proposed Action “*may affect, is not likely to adversely affect*” the Mexican Spotted Owl.



# United States Department of the Interior

FISH AND WILDLIFE SERVICE

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

RECEIVED  
VERNAL FIELD OFFICE  
2007 SEP 18 PM 2:13  
DEPT. OF THE INTERIOR  
BUREAU OF LAND MGMT.

September 13, 2007

In Reply Refer To

FWS/R6

ES/UT

7-F-0166

6-UT-07-F-025

## Memorandum

To: Field Manager, Vernal Field Office, Bureau of Land Management, Vernal, Utah

From: Utah Field Supervisor, Ecological Services, U.S. Fish and Wildlife Service, West Valley City, Utah

Subject: Conclusion of Formal Section 7 Consultation for Tumbleweed Exploratory Drilling Project (EA #UT-080-05-201)

We received your letter requesting concurrence for Stewart Petroleum Corporation's Tumbleweed Exploratory Drilling Project (EA #UT-080-05-201) on September 12, 2007. We've been coordinating with the Bureau of Land Management (BLM) on the development of the Environmental Assessment (EA) and Biological Assessment (BA) since June 14, 2007. A complete administrative record for this project is on file in our office.

Based on your letter, we concur with your "may affect, not likely to adversely affect" determinations for the Mexican spotted owl. We base our determination on the following:

- Two years of surveys have been completed for two proposed wells (18-9-15-21 and 14-17-15-21) and associated infrastructure. The results for both years were negative (Grasslands Consulting 2006 and EIS Consulting 2007).
- The following applicant committed conservation measures will be applied to the remaining four wells (3-4-15-21, 8-5-15-21, 3-9-15-21, and 15-8-15-21):
  - No surface disturbing activities would be allowed within "good" and "fair" habitat designations until the end of the two survey seasons in accordance with USFWS protocol.
  - If MSO are documented, BLM would consequently follow USFWS protocol for Protected Activity Center (PAC) establishment.
  - If no owls have been detected at the completion of the two seasons of calling surveys, the timing restriction shown in Table 2-2 (of the EA) would no longer be required for the areas of "good" and "fair" habitat, or the 0.5 mile buffer.

However, if more than four years have elapsed between the end of the two seasons of survey and the initiation of surface disturbing activities within the 0.5 mile buffer, then another complete inventory would be required prior to any surface disturbing activities.

- In addition to these applicant committed conservation measures within the EA, the applicant will not develop within 0.5 mile of good or fair habitat until two years of surveys are complete (personal communication with Dawn Martin of Buys and Associates September 13, 2007).

Due to water depletions, your office made the determination of "may affect, likely to adversely affect" for the four Colorado River endangered fish: Colorado pikeminnow, bonytail, humpback chub, and razorback sucker. Your EA stated this project tiered to the July 28, 2006 Programmatic Water Depletion Biological Opinion for Oil and Gas Development Administered or Permitted by the Bureau of Land Management (PWDBO). We provided comments to your office on July 6, 2007 stating that the project can not use the PWDBO because the depletions are considered historic. The PWDBO states that the programmatic consultation does not include historic depletions. Therefore, we are providing formal section 7 consultation for water depletions associated with the proposed project as per personal communications between Bekee Megown (U. S. Fish and Wildlife Service) and Jerry Kenzka (BLM) (September 13, 2007). In accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Interagency Cooperation Regulations (50 CFR 402), this document transmits the Fish and Wildlife Service's (Service) biological opinion for these four fish species.

Based on information provided in the EA, the project will use a total of 30.6 acre-feet of water for drilling, completion, and dust suppression. The water will be obtained from Water Right Permit #49-123 which was filed on 05/09/1921. The special use authorization number iws t 33231 (Dawn Martin personal communication July 13, 2007).

To address depletion issues, on January 21-22, 1988, the Secretary of the Interior; the Governors of Wyoming, Colorado, and Utah; and the Administrator of the Western Area Power Administration were cosigners of a Cooperative Agreement to implement the "Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin" (USFWS 1987). In order to further define and clarify the process in the Recovery Program, a section 7 agreement was implemented on October 15, 1993, by the Recovery Program participants. Incorporated into this agreement is a Recovery Implementation Program Recovery Action Plan (Plan) which identifies actions currently believed to be required to recover the endangered fishes in the most expeditious manner. Activities and accomplishments under the Recovery Program provide the reasonable and prudent alternatives which avoid the likelihood of jeopardy to the continued existence of the endangered Colorado River fishes and to avoid the likely destruction or adverse modification of critical habitat in Section 7 consultations on all impacts (except the discharge of pollutants such as trace elements, heavy metals, and pesticides) associated with historic water projects in the Upper Basin. Depletion charges or other measures will not be required from historic projects which undergo Section 7 consultation in the future.

We appreciate your commitment in conserving endangered species. Should project plans change, or if additional information on the distribution of listed or proposed species becomes

available, these determination may be reconsidered. If further assistance is needed or you have any questions, please contact Bekee Megown, at (801) 975-3330 extension 146.



cc: Dawn Martin, Buys & Associates, Inc., 300 E. Mineral Ave., Suite 10, Littleton, CO 80122

Division	Initial	Assigned
Field Manager		
Associate/ Support Services		
Fire		
Lands & Minerals		
NEPA		
Renewables		
BUREAU OF LAND MGMT, VERNAL, UTAH		
ALL EMPLOYEES		

We request your concurrence on our determination for the proposed project so as to conclude informal consultation.

If you have any questions or need additional information, please contact Scott Ackerman, Wildlife Biologist at (435) 781-4437 for Mexican spotted concerns.

email from DCrane to SHoward

From: Stephanie\_Howard@blm.gov  
Sent: Thursday, October 08, 2009 3:55 PM  
To: Dawn Martin  
Subject: Fw: summary of Tumbleweed Changes for FWS Consultation Purposes

Attachments: Tumbleweed II Changes Relevant to Sect 7 Consult.doc

Stephanie Howard  
Environmental Coordinator  
170 S 500 E  
Vernal, UT 84078  
direct: 435-781-4469  
cell: 435-828-1631  
fax: 435-781-4410

----- Forwarded by Stephanie Howard/VFO/UT/BLM/DOI on 10/08/2009 03:54 PM

-----

Drew  
Crane/R6/FWS/DOI@  
FWS

10/07/2009 01:33  
PM

To  
Stephanie Howard/VFO/UT/BLM/DOI@BLM  
CC

Subject  
Re: Fw: summary of Tumbleweed  
Changes for FWS Consultation  
Purposes(Document link: Stephanie  
Howard)

Stephanie,

It's the Service's opinion that the change in impacts to listed species you have documented below are not significant enough to require reinitiation of formal consultation for this project. The previous consultation done for the Tumbleweed EA/BA and all terms and conditions contained within would be applicable to the revised EA. Feel free to contact me if you have any questions.

Thanks

Drew Crane  
Fish and wildlife Biologist  
U.S. Fish and wildlife Service, Utah Field Office  
2369 west Orton Circle Suite 50  
west valley City, UT 84119  
Phone: 801-975-3330 ext 124  
Fax: 801-975-3331  
E-mail: drew\_crane@fws.gov

Achieving sustainable native species and ecosystems through leadership, partnerships, and innovation.

email from DCrane to SHoward

Stephanie  
Howard/VFO/UT/BLM  
/DOI@BLM

10/07/2009 01:20  
PM

Drew Crane/R6/FWS/DOI@FWS

To

cc

Subject  
Fw: summary of Tumbleweed Changes  
for FWS Consultation Purposes

Stephanie Howard  
Environmental Coordinator  
170 S 500 E  
Vernal, UT 84078  
direct: 435-781-4469  
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fax: 435-781-4410

----- Forwarded by Stephanie Howard/VFO/UT/BLM/DOI on 10/07/2009 01:19 PM  
-----

Stephanie  
Howard/VFO/UT/BLM  
/DOI

08/31/2009 01:26  
PM

Drew Crane/VFO/UT/BLM/DOI

To

cc

Subject  
Fw: summary of Tumbleweed Changes  
for FWS Consultation Purposes

Hi Drew,

Hope this helps you to determine if we need to reinitiate consultation or not. Let me know if you need more info. Thanks.

Stephanie Howard  
Environmental Coordinator  
170 S 500 E  
Vernal, UT 84078  
direct: 435-781-4469  
cell: 435-828-1631  
fax: 435-781-4410

----- Forwarded by Stephanie Howard/VFO/UT/BLM/DOI on 08/31/2009 01:25 PM  
-----

email from DCrane to SHoward

"Dawn Martin"  
<dmartin@buysanda  
ssociates.com>

08/31/2009 01:09  
PM

<Stephanie\_Howard@blm.gov>

''Melissa Bridendall''  
<mbridendall@buysandassociates.com>  
Subject  
summary of Tumbleweed Changes for  
Consultation Purposes

To

cc

Dear Stephanie,

You'd asked us to provide a description of the key changes between the original Tumbleweed EA (which was consulted on with the FWS) and the current Tumbleweed II EA. We agree that the project has not changed to the extent that re-initiation of consultation would be needed. In short, the key changes to the project include:

- A change in the project name and the BLM's NEPA number assigned to the EA;
- Changes to the well naming convention (wells are now named using Stewart Petroleum's naming convention);
- Change in the number of well pads (from 6 to 7 well pads) and wells (from 6 to 9 wells) under the Proposed Action;
  - Increase in water depletion from 30.6 acre-feet to 45.8 acre-feet to accommodate the additional wells under the Proposed Action;
  - Water right permit number has been updated / made current;
- Addition of a directional drilling alternative that analyzes development of 9 wells from 4 well pads;
- Overhaul of the Tumbleweed II EA to bring the document up to speed with the Vernal RMP;
- Results from the 2009 MSO surveys were added to the MSO discussion.

Melissa Bridendall prepared the attached summary of T&E species discussions in the EA. Specifically, she's clipped all of the Chapter 2 info relevant to the MSO and the CO River Endangered fish species, Chapter 3 Affected Environment discussions for MSO and the CO River Fishes, and Chapter 4 analyses for these species under the Proposed Action and Directional Drilling Alternative.

If you (or Drew) need anything else, please let Melissa and I know.  
Thanks!

-Dawn

Dawn Martin  
NEPA Program Manager  
Buys & Associates, Inc.  
300 E. Mineral Ave., Suite 10  
Littleton, CO 80122  
303-781-8211 (office)

email from DCrane to SHoward

303-916-0354 (mobile)

(See attached file: Tumbleweed II Changes Relevant to Sect 7 Consult.doc)



State of Utah

JOHN M. HUNTSMAN, JR.  
Governor

GARY R. HERBERT  
Lieutenant Governor

Department of Community and Culture

PALMER DePAULIS  
Executive Director

State History

PHILIP F. NOTARIANNI  
Division Director

December 16, 2008

Jerry Kenczka  
AFM, Lands and Minerals  
Bureau of Land Management  
170 South 500 East  
Vernal UT 84078

RE: Tumbleweed Unit Proposed Drilling, T14-15S, R121E

In Reply Please Refer to Case No. 08-2059

Dear Mr. Kenczka:

The Utah State Historic Preservation Office received your request for our comment on the above-referenced project on December 9, 2008.

We concur with your determination of **No Adverse Effect**.

This letter serves as our comment on the determinations you have made, within the consultation process specified in §36CFR800.4. If you have questions, please contact me at 801-533-3555 or [Lhunsaker@utah.gov](mailto:Lhunsaker@utah.gov) or Jim Dykman at 801-533-3523 or [jdymkman@utah.gov](mailto:jdymkman@utah.gov)

Sincerely,

Lori Hunsaker  
Deputy State Historic Preservation Officer - Archaeology



UTAH STATE HISTORICAL SOCIETY  
ANTIQUE SOCIETY  
HISTORIC PRESERVATION  
RESEARCH CENTER & COLLECTIONS



Benjamin H. Nuvamsa  
CHAIRMAN

Todd Honyaoma, Sr.  
VICE-CHAIRMAN

December 22, 2008

Jerry Kenczka, AFM, Lands and Minerals  
Attention: Gabrielle Elliot, Archaeologist  
Bureau of Land Management, Vernal Field Office  
170 South 500 East  
Vernal, Utah 84078

Dear Mr. Kenczka,

This letter is in response your correspondence dated December 8, 2008, regarding Stewart Petroleum proposing up to six exploratory natural gas wells, production facilities, roads and pipelines. The Hopi Tribe claims cultural affiliation to prehistoric cultural groups in Utah, including the Archaic and Fremont cultural groups, and the Hopi Cultural Preservation Office supports the identification and avoidance of prehistoric archaeological sites and Traditional Cultural Properties. Therefore, we appreciate the Bureau of Land Management's continuing solicitation of our input and your efforts to address our concerns.

The Hopi Cultural Preservation Office considers the prehistoric archaeological sites of our ancestors to be Traditional Cultural Properties. We understand the project area has been surveyed for cultural resources and five identified National Register eligible properties will be avoided by project activities. We are not aware of any other Hopi Traditional Cultural Properties in this project area.

Should you have any questions or need additional information, please contact Terry Morgart at the Hopi Cultural Preservation Office at [tmorgart@hopi.nsn.us](mailto:tmorgart@hopi.nsn.us). Thank you for your consideration.

Respectfully,

  
Leigh J. Kuwanwisiwma, Director  
Hopi Cultural Preservation Office

xc: Utah State Historic Preservation Office



**PUEBLO OF LAGUNA**

P.O. BOX 194  
LAGUNA, NEW MEXICO 87028



(505) 552-6598  
(505) 552-8654  
(505) 552-8655

Office of:

The Governor  
The Secretary  
The Treasurer

December 18, 2008

*Tumbleweed  
EA*

VERNAL, UT  
2008 DEC 24 PM 1 28  
BUREAU OF LAND MGMT

Mr. Jerry Kenecka  
Bureau of Land Management  
Vernal Field Office  
170 South 500 East  
Vernal, UT 84078

Dear Mr. Keneczka:

RE: 3160 LLUTG01100

The Pueblo of Laguna appreciates your consideration to comment on the possible interest your project may have on any traditional or cultural properties.

The Pueblo of Laguna has determined that the undertaking WILL NOT have a significant impact at this time. However, in the event that any new archaeological sites are discovered and any new artifacts are removed, we request to be notified to review items. We also request photographs of items. According to our unpublished migration history, our ancestors journeyed from the north through that area and settled for periods of time before traveling to our present location. Therefore, the possibilities of some findings may exist.

We thank you and your staff for the information provided.

Sincerely,

*John E. Antonio, Sr.*  
John E. Antonio, Sr.  
Governor, Pueblo of Laguna