

**APPENDIX D:**  
LETTERS FROM THE U.S. FISH AND WILDLIFE SERVICE REGARDING  
THREATENED AND ENDANGERED SPECIES

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# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
4000 Airport Parkway  
Cheyenne, Wyoming 82001

In Reply Refer To:  
ES-61411/W.02/WY8321

May 2, 2004

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

Dear Mr. Schoumacher:

Thank-you for you letter of March 31, 2004 regarding the lease of a historical site by the Lander Bureau of Land Management Field Office. This project involves leasing a portion of the Martin's Cove area, including Sections 26-28 and 33-35, T29N, R87W, within Natrona County, Wyoming to the Mormon Church.

The lead Federal agency, in this case the BLM, or their designated non-federal representative, is responsible for review of proposed activities to determine whether listed or proposed species will be affected. If it is determined that the proposed activities may affect a listed or proposed species, consultation pursuant to section 7(a)(2) of the Act, as amended (50 CFR § 402.13) is required. In accordance with section 7(c) of the Act, my staff has determined that the following threatened or endangered species, or species proposed for listing under the Act, may be present in the project area.

<b>SPECIES</b>	<b>STATUS</b>	<b>HABITAT</b>
Bald eagle ( <i>Haliaeetus leucocephalus</i> )	Threatened	Found throughout state
Black-footed ferret ( <i>Mustela nigripes</i> )	Endangered	Prairie dog towns
Ute ladies'-tresses ( <i>Spiranthes diluvialis</i> )	Threatened	Seasonally moist soils and wet meadows of drainages below 7000 feet

If the proposed action will lead to water depletions (consumption) in the Platte River System, impacts to threatened and endangered species inhabiting the downstream reaches of this system should be included in the evaluation.

Platte River species	Endangered	Downstream riverine habitat of the Platte River in Nebraska
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**Bald eagle:** While habitat loss still remains a threat to the bald eagle's full recovery, most experts agree that its recovery to date is encouraging. Adult eagles establish life-long pair bonds and build huge nests in the tops of large trees near rivers, lakes, marshes, or other wetland areas. Although bald eagles may range over great distances, they usually return to nest within 100 miles of where they were fledged. During winter, bald eagles gather at night to roost in large mature trees, usually in secluded locations that offer protection from harsh weather. Bald eagles often return to use the same nest and winter roost year after year.

In order to reduce potential adverse effects to the bald eagle, a disturbance-free buffer zone of 1 mile should be maintained around eagle nests and winter roost sites. Activity within 1 mile of an eagle nest or roost may disturb the eagles and result in take. If a disturbance-free buffer zone of 1 mile is not practicable, then the activity should be conducted outside of February 15 through August 15 to protect nesting birds and November 1 through April 15 to protect roosting birds

**Black-footed ferret:** Black-footed ferrets may be affected if prairie dog towns are impacted. Please be aware that black-footed ferret surveys are no longer recommended in black-tailed prairie dog towns (*Cynomys ludovicianus*) statewide or in white-tailed prairie dog towns except those noted in the attachment (see attached letter). If white-tailed prairie dog (*Cynomys leucurus*) towns or complexes greater than 200 acres will be disturbed, surveys for ferrets are recommended in order to determine if the action will result in an adverse effect to the species. Surveys are recommended even if only a portion of the white-tailed prairie dog town or complex (as identified in our February 2, 2004 letter) will be disturbed. According to the *Black-Footed Ferret Survey Guidelines* (USFWS 1989), a prairie dog complex consists of two or more neighboring prairie dog towns less than 7 km (4.3 miles) from each other. If a field check indicates that prairie dog towns may be affected, you should contact this office for guidance on ferret surveys.

**Ute ladies'-tresses:** Ute ladies'-tresses (*Spiranthes diluvialis*) is a perennial, terrestrial orchid, 8 to 20 inches tall, with white or ivory flowers clustered into a spike arrangement at the top of the stem. *Spiranthes* typically blooms from late July through August; however, depending on location and climatic conditions, it may bloom in early July or still be in flower as late as early October. *Spiranthes* is endemic to moist soils near wetland meadows, springs, lakes, and perennial streams where it colonizes early successional point bars or sandy edges. The elevation range of known occurrences is 4,200 to 7,000 feet in alluvial substrates along riparian edges, gravel bars, old oxbows, and moist to wet meadows. Soils where *Spiranthes* have been found typically range from fine silt/sand, to gravels and cobbles, as well as to highly organic and peaty soil types. *Spiranthes* is not found in heavy or tight clay soils or in extremely saline or alkaline soils. *Spiranthes* seems intolerant of shade and small scattered groups are found primarily in areas where vegetation is relatively open. Surveys should be conducted by knowledgeable botanists trained in conducting rare plant surveys. *Spiranthes* is difficult to survey for primarily due to its unpredictability of emergence of flowering parts and subsequent rapid desiccation of specimens. The Service does not maintain a list of "qualified" surveyors but can refer those wishing to become familiar with the orchid to experts who can provide training or services.

### **Platte River Depletions**

Since 1978, the U.S. Fish and Wildlife Service (Service) has consistently taken the position in its section 7 consultations that Federal agency actions resulting in water depletions to the Platte River system may affect the endangered whooping crane (*Grus americana*), endangered interior least tern (*Sterna antillarum*), threatened piping plover (*Charadrius melodus*), and endangered pallid sturgeon (*Scaphirhynchus albus*), the threatened bald eagle (*Haliaeetus leucocephalus*), the endangered eskimo curlew (*Numenius borealis*), and threatened western prairie fringed orchid (*Platanthera praeclara*).

In general, depletions include evaporative losses and/or consumptive use, often characterized as diversions from the Platte River or its tributaries less return flows. Project elements that could be associated with depletions to the Platte River system include, but are not limited to, ponds (detention/recreation/irrigation storage/stock watering), lakes (recreation/irrigation storage/municipal storage/power generation), reservoirs (recreation/irrigation storage/municipal storage/power generation), created or enhanced wetlands, pipelines, wells, diversion structures, and water treatment facilities.

Any actions that may result in a water depletion to the Platte River system should be identified. The document should also include an estimate of the amount and timing of average annual water depletion (both existing and new depletions), describe methods of arriving at such estimates, describe location of where depletion occurs as specifically as possible, if and when it will be returned to the system and what the depletion is being used for. Note that if the project has peculiarities or oddities, the Service may have more specific questions regarding these particular water depletions.

**Candidate Species:** Species that are candidates for listing as threatened or endangered that may occur within the project area are identified below. Many Federal agencies have policies to protect candidate species from further population declines. We would appreciate receiving any information available on the status of these species in or near the project area. In addition, if one or more of these species is listed prior to the completion of your project, unnecessary delays may be avoided by considering project impacts to candidates now.

#### **Species**

#### **Expected Occurrence**

Black-tailed prairie dog  
(*Cynomys ludovicianus*)

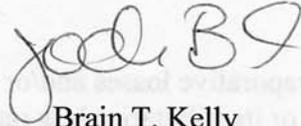
Grasslands generally east of the continental divide

Should any of these species be proposed for listing, the lead Federal agency would be required to confer with this office if that agency determines their action (e.g. approval of the project) is likely to jeopardize the continued existence of any of these species.

We appreciate your efforts to ensure the conservation of endangered, threatened, and candidate species. In the event that you should request future concurrence from the Service for your determination of effects from this project, we request that you state whether the project proponent has been designated a non-federal representative of the lead federal agency for this project (BLM). As the non-federal representative, the project proponent would be able to request

and receive the Service's concurrence directly based on their analysis of the project. If you have any questions regarding our comments or your responsibilities under the Act or this letter, please contact Jessica Homyack of my staff at the letterhead address or phone (307) 772-2374 extension 24.

Sincerely,



Brain T. Kelly  
Field Supervisor  
Wyoming Field Office

cc: BLM, Field Manager, Lander Field Office, Lander WY (J. Kelly)  
WGFD, Statewide Habitat Protection Coordinator, Cheyenne, WY (V. Stelter)  
WGFD, Non-Game Coordinator, Lander, WY (B. Oakleaf)

Enclosures (2)



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
4000 Airport Parkway  
Cheyenne, Wyoming 82001

In Reply Refer To:  
ES-61411/BFF/WY7746

Dear Interested Party:

This letter is to inform you that black-footed ferret (*Mustela nigripes*) surveys are no longer necessary in black-tailed prairie dog colonies statewide or in white-tailed prairie dog towns except those noted in the attachment. In response to requests from numerous entities and our own review of the situation regarding ferret surveys, the U.S. Fish and Wildlife Service (Service) and others have been evaluating the potential for a previously unidentified black-footed ferret population to occur in Wyoming and the need for conducting black-footed ferret surveys across the entire state. This issue has been especially pertinent when evaluating various activities for compliance with the Endangered Species Act of 1973 (Act), as amended (16 USC 1531 *et seq.*).

The black-footed ferret was listed as an endangered species in 1967, prior to the Act (under the Endangered Species Preservation Act of 1966). The Act prohibits the take of listed species without proper permits and places an additional requirement on activities funded, authorized or carried out by Federal agencies to ensure that such actions will not jeopardize the continued existence of any listed species. The latter process is known as interagency consultation and is outlined in section 7(a)(2) of the Act (50 C.F.R. § 402.13).

The Service developed the 1989 *Black-footed Ferret Survey Guidelines for Compliance with the Endangered Species Act* (Survey Guidelines) to assist with section 7 consultations for ferrets. The Survey Guidelines provide a mechanism to evaluate the possibility of locating existing ferrets in prairie dog colonies by examination of the size, density, and juxtaposition of existing prairie dog colonies. The key points of the strategy are to determine the existence of ferrets or an area's potential for ferret recovery and either may be used in section 7 consultations when determining whether an action may affect the black-footed ferret. The Survey Guidelines can be followed by interested parties (federal agencies and their partners) during the section 7 consultation process to make determinations on whether an activity may adversely affect ferrets. However, an unintended drawback to the Survey Guidelines is that repetitive surveys may be undertaken to evaluate possible impacts to ferrets on prairie dog colonies that have already been searched or that didn't present any realistic opportunities for ferret reintroduction.

The Service has been coordinating with the Wyoming Game and Fish Department in reviewing information about the current and historic status of prairie dog towns throughout Wyoming. In addition to the status review, we have also been reviewing the history of black-footed ferret surveys to determine whether the survey guidelines should continue to be applied across the entire state. Through this process, the Service has developed an initial list of blocks of habitat that are not likely to be inhabited by black-footed ferrets. In these areas, take of individual ferrets and effects to a wild population are not an issue and surveys for ferrets are no longer recommended. The term "block clearance" has often been used to describe this type of approach. This initial list is based largely on the quality of the habitat today, as well as information regarding past population bottlenecks that may have resulted from plague and poisoning events in particular areas and may have led to the loss of ferrets in the area.

Additional information regarding the survey effort on the specific areas not yet block-cleared is currently being reviewed by the Service. Based on this review, the Service will likely add several blocks of habitat to the list in the future. The Service will continue to collect and review information on any remaining areas to determine if they should be added to the list of areas cleared from the survey recommendation. Therefore, prior to conducting surveys, you should coordinate with the Service to determine which specific areas are recommended for surveys. We have attached our initial list of areas cleared from the ferret survey recommendation. We believe this approach is not only biologically defensible, but also allows all parties involved to focus survey effort and resources on those areas where the likelihood of discovering wild ferrets is greatest.

Please note that "block clearance" must not be interpreted to mean that the area is free of all value to black-footed ferrets. These areas, or blocks, are merely being cleared from the need for ferret surveys. Therefore, this clearance from the survey recommendations reflects only the negligible likelihood of a wild population of ferrets occurring in an area. It does not provide insight into an area's value for survival and recovery of the species through future reintroduction efforts. Nor does this clearance relieve a Federal agency of its responsibility to evaluate the effects of its actions on the survival and recovery of the species. For example, while an action proposed in a cleared area needs no survey and is not likely to result in take of individuals, the action could have an adverse effect upon the value of a prairie dog town as a future reintroduction site and should be evaluated to determine the significance of that effect. Consultation with the Service is appropriate for any agency action resulting in an effect significant enough to diminish a site's value as a future reintroduction site. Additionally, block clearance of an area does not imply that other values of maintaining the integrity of the prairie dog ecosystem are unimportant.

We appreciate your efforts to conserve listed species. Without the valuable information collected to date in association with black-footed ferret surveys, we would not be able to undertake this effort to focus ferret surveys on the most promising habitat.

Attachment 1

If you have any questions regarding this letter or your responsibilities under the Act, please contact Mary Jennings of my staff at the letterhead address or phone (307) 772-2374, extension 32.

Sincerely,

*/s/ Brian T. Kelly*

Brian T. Kelly  
Field Supervisor  
Wyoming Field Office

Enclosure (1)

cc: WGFD, Non-Game Coordinator, Lander, WY (B. Oakleaf)  
FWS, BFF Recovery Coordinator, Laramie, WY (M. Lockhart)

**Black-footed Ferret Survey Block Clearance List**

February 1, 2004

The following blocks of black-footed ferret habitat are cleared from the recommendation for ferret surveys:

1. All black-tailed prairie dog towns in Wyoming
2. All white-tailed prairie dog towns in Wyoming **EXCEPT** those identified in the following table.

Complex Name	Townships	Ranges	Complex Name	Townships	Ranges
Baxter Basin	T18, T19, T20	R103, R104	Fifteen Mile	T47-T49 T48	R97, R98 R96 (west half)
Big Piney	T 28 T29, T30, T31	R111, R112 R109-R111	Flaming Gorge	T12, T13 T12-T14 T13	R109 R108 R107
Bolton Ranch	T17 T18, T19	R86, R88 R86-R88	Manderson	T47, T48 T49	R90, R91 R91
Carter	T16, T17 T18	R114-R116 R115	Moxa	T15, T16 T17, T18 T19, T20 T21 T22, T23 T24	R112, R113 R111-R113 R111-R114 R110-R113 R111-R113 R112
Continental Divide	T16 T17 T18 T19 T20	R93-95 R92-95, 98-100, 97-98 R92-96, 98-99 R92-96 R92-95	Pathfinder	T27 T28 T29	R85, R86 R85-R89 R85, R89
Cumberland	T16 T17-T19 T19, T20	R118 R117 R116	Saratoga	T14 T15 T16	R82, R83 R82-R84 R83-R85

Attachment 2

Dad	T15, T16 T17	R90-R93 R92, R93	Seminole	T23, T24	R84, R85
Desolation Flats	T13 T14 T15 T16	R93-95 R93-94 R93-94, 96 R93-96	Shamrock Hills	T22, T23 T24, T25 T26	R89, R90 R89 R89, R90

Company Change	118 119 120	1100-1110 1110-1120 1120-1130	Shamrock Hills	110 111 112	1100-1110 1110-1120 1120-1130
Company Change	113 114 115 116	1130-1140 1140-1150 1150-1160 1160-1170	Shamrock Hills	113 114 115 116	1130-1140 1140-1150 1150-1160 1160-1170
Company Change	117 118 119 120	1170-1180 1180-1190 1190-1200 1200-1210	Shamrock Hills	117 118 119 120	1170-1180 1180-1190 1190-1200 1200-1210
Company Change	121 122 123 124	1210-1220 1220-1230 1230-1240 1240-1250	Shamrock Hills	121 122 123 124	1210-1220 1220-1230 1230-1240 1240-1250
Company Change	125 126 127 128	1250-1260 1260-1270 1270-1280 1280-1290	Shamrock Hills	125 126 127 128	1250-1260 1260-1270 1270-1280 1280-1290
Company Change	129 130 131 132	1290-1300 1300-1310 1310-1320 1320-1330	Shamrock Hills	129 130 131 132	1290-1300 1300-1310 1310-1320 1320-1330
Company Change	133 134 135 136	1330-1340 1340-1350 1350-1360 1360-1370	Shamrock Hills	133 134 135 136	1330-1340 1340-1350 1350-1360 1360-1370
Company Change	137 138 139 140	1370-1380 1380-1390 1390-1400 1400-1410	Shamrock Hills	137 138 139 140	1370-1380 1380-1390 1390-1400 1400-1410
Company Change	141 142 143 144	1410-1420 1420-1430 1430-1440 1440-1450	Shamrock Hills	141 142 143 144	1410-1420 1420-1430 1430-1440 1440-1450
Company Change	145 146 147 148	1450-1460 1460-1470 1470-1480 1480-1490	Shamrock Hills	145 146 147 148	1450-1460 1460-1470 1470-1480 1480-1490
Company Change	149 150 151 152	1490-1500 1500-1510 1510-1520 1520-1530	Shamrock Hills	149 150 151 152	1490-1500 1500-1510 1510-1520 1520-1530
Company Change	153 154 155 156	1530-1540 1540-1550 1550-1560 1560-1570	Shamrock Hills	153 154 155 156	1530-1540 1540-1550 1550-1560 1560-1570
Company Change	157 158 159 160	1570-1580 1580-1590 1590-1600 1600-1610	Shamrock Hills	157 158 159 160	1570-1580 1580-1590 1590-1600 1600-1610
Company Change	161 162 163 164	1610-1620 1620-1630 1630-1640 1640-1650	Shamrock Hills	161 162 163 164	1610-1620 1620-1630 1630-1640 1640-1650
Company Change	165 166 167 168	1650-1660 1660-1670 1670-1680 1680-1690	Shamrock Hills	165 166 167 168	1650-1660 1660-1670 1670-1680 1680-1690
Company Change	169 170 171 172	1690-1700 1700-1710 1710-1720 1720-1730	Shamrock Hills	169 170 171 172	1690-1700 1700-1710 1710-1720 1720-1730
Company Change	173 174 175 176	1730-1740 1740-1750 1750-1760 1760-1770	Shamrock Hills	173 174 175 176	1730-1740 1740-1750 1750-1760 1760-1770
Company Change	177 178 179 180	1770-1780 1780-1790 1790-1800 1800-1810	Shamrock Hills	177 178 179 180	1770-1780 1780-1790 1790-1800 1800-1810
Company Change	181 182 183 184	1810-1820 1820-1830 1830-1840 1840-1850	Shamrock Hills	181 182 183 184	1810-1820 1820-1830 1830-1840 1840-1850
Company Change	185 186 187 188	1850-1860 1860-1870 1870-1880 1880-1890	Shamrock Hills	185 186 187 188	1850-1860 1860-1870 1870-1880 1880-1890
Company Change	189 190 191 192	1890-1900 1900-1910 1910-1920 1920-1930	Shamrock Hills	189 190 191 192	1890-1900 1900-1910 1910-1920 1920-1930
Company Change	193 194 195 196	1930-1940 1940-1950 1950-1960 1960-1970	Shamrock Hills	193 194 195 196	1930-1940 1940-1950 1950-1960 1960-1970
Company Change	197 198 199 200	1970-1980 1980-1990 1990-2000 2000-2010	Shamrock Hills	197 198 199 200	1970-1980 1980-1990 1990-2000 2000-2010

5. All equipment shall be used in accordance with the manufacturer's instructions.

6. All equipment shall be used in accordance with the manufacturer's instructions.

7. All equipment shall be used in accordance with the manufacturer's instructions.

8. All equipment shall be used in accordance with the manufacturer's instructions.

9. All equipment shall be used in accordance with the manufacturer's instructions.

10. All equipment shall be used in accordance with the manufacturer's instructions.



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
4000 Airport Parkway  
Cheyenne, Wyoming 82001

8/11  
RAS  
File #

In Reply Refer To:  
ES/61411/W02/WY8683

AUG 09 2004

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

Dear Mr. Schoumacher:

Thank-you for your letter of July 30, 2004 regarding the lease of Martin's Cove to the Church of Jesus Christ of Latter-Day Saints. The Bureau of Land Management (BLM) is planning to lease a 940-acre tract of land in Natrona County, Wyoming to the Church because of the land's historical significance.

According to the letter and the phone conversation between you and Jessica Homyack of my staff on August 3, 2004, no new development will occur as a result of the lease. The Church has been leasing this land from the BLM for several years, and a pedestrian walking path is already in place. Based on the information provided, it is unlikely the proposed lease will adversely affect any threatened or endangered species. However, if the scope of the project is changed (e.g., construction of new buildings), or the project is modified in a manner that you determine may affect a listed species, this office should be contacted to discuss consultation requirements pursuant to section 7(a) (2) of the Endangered Species Act of 1973, as amended 16 U.S.C. 1531 *et seq.*

If you have questions regarding our comments or your responsibility under the Endangered Species Act, please contact Jessica Homyack of my staff at the letterhead address or phone (307) 772-2374, extension 24.

Sincerely,

Brian T. Kelly  
Field Supervisor  
Wyoming Field Office

cc: BLM, Field Manager, Casper Field Office, Casper, WY (J. Murkin)  
WGFD, Statewide Habitat Protection Coordinator, Cheyenne, WY (V. Stelter)  
WGFD, Non-Game Coordinator, Lander, WY (B. Oakleaf)