

APPENDIX C

Office of State Lands and Investments

122 West 25th Street, Herschler Building
Cheyenne, Wyoming 82002-0600
Phone: (307) 777-7331
Fax: (307) 777-5400
E-Mail: slfmail@missc.state.wy.us



December 1, 1998

MEMORANDUM

TO: STATE OF WYOMING OIL AND GAS LESSEES WITHIN THE PINEDALE
ANTICLINE EIS AREA

FROM: MINERAL LEASING AND ROYALTY COMPLIANCE DIVISION

SUBJECT: PINEDALE ANTICLINE EIS SENSITIVITY

As each of you know, the Pinedale Anticline development EIS is a burgeoning morass of environmental concerns as relate to scenic/visual, wildlife, water/wetland and air quality management issues. Setting in on recent State and State/federal meetings regarding the EIS overall, and the number of wells required to explore and develop the area, I'm concerned as my earlier letter to State lessees in this area indicated, about State lands development. Restrictions being proposed for the involved lands, at least the federal, and to some extent, based on statutes, private and State lands, tends to throw such a pall over the activity, one wonders if we can satisfy enough concerns so as to develop at all. Let's hope so if the prospect is geologically sound.

State land leases were not issued with any specific stipulations regarding development in areas like this, however they do require compliance with all State law and any of the regulations supporting same. This includes the State's archaeological and paleontological protection statutes as well as the more recognized requirements of the DEQ and the Oil and Gas Commission. It also goes without saying that the State's lessees are subject to all applicable federal law as relates to endangered species, pollution and the like. We do not have strict State statutes and regulations regarding some of the concerns of the professionals at the Wyoming Game and Fish Department nor the State's Historic Preservation Office, yet their concerns are cogent, and can hopefully be accommodated by thoughtful development, as that may be allowed in the future. Certainly, some consideration and thoughtful planning on the part of lessees of State land oil and gas leases, for concerns over development closer than a quarter mile of the Lander Cut-off Trail of the Mormon Trail, or critical wildlife winter range drilling activity, or drilling within a quarter mile of sage grouse leks during strutting and nesting, will go a long way toward stemming the disquietude of those folks. The Office of State Lands and Investments wants you to know that we know how hard, and often times, frustrating, this process of clearing the EIS/NEPA hurdles is. And, we want you to know the intent of this memorandum is not to add "fuel to the fire", but rather to just keep you informed of the pressures we see from the aspect

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of cooperating agency status in this process. We hope that where possible, accommodation can be made to some of the direct "environmental" concerns for State mineral land locations, in hopes of making the whole process more favorable in total to you as lessees, and one in which unwarranted disquietude can be laid to rest with a few very reasonable and practical actions.

We wish you luck in this process, and where you have a concern/issue or problem we may be able to assist with, hope that you will call us, keep us in the loop, and maybe as a whole, WE'LL together, make a difference, and get the job done.

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Cheyenne, Wyoming 82002-0600
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December 16, 1998

Ultra Resources, Inc.
1112 Bonnie Brae
Casper, WY 82601

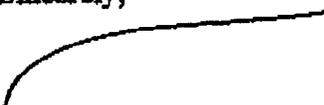
RE: Pinedale Anticline EIS - Extensions of State leases

Gentlemen:

As you well know by now, the State land leases encompassed within the Pinedale Anticline area were not issued with any specific stipulations regarding development other than a requirement to comply with all State laws and any of the regulations supporting such. Let this letter serve as a reminder that State leases held in areas of critical winter range that are also due to expire could be extended. Attached please find a copy of the Chapter 6 rules and regulations dealing with extensions of State leases.

This office can not guarantee an extension will be granted by the Board of Land Commissioners, but is a potentially viable way to mitigate some wildlife concerns in the EIS area. Please contact this office should you have any questions or concerns.

Sincerely,


Tracy J. Williams
Natural Resources Technician

✓ cc: Carol Kruse - Fed. Land Policy

to the state, or a share of the net profits.

After a lease becomes an operating lease, the board may reduce the royalty payable to the state as to all or any of the lands, formations, deposits, or resources covered by the lease, if it determines that such a reduction is necessary to allow the lessee to undertake operations or to continue to operate with a reasonable expectation that the operations will be profitable. Such a reduction in the royalty payable to the state shall in all cases be conditioned upon the cancellation of all cost-free interests in excess of 5% and the reduction of all other cost-free interests in the same proportion as the state's royalty is reduced. The board may also make other requirements as a condition to the reduction in royalty.

Section 11. Term of Years of Lease.

(a) Oil and gas leases shall be for a primary term of five (5) years and as long thereafter as oil or gas may be produced in paying quantities. A lease covering other subsurface resources shall be for a primary term not exceeding ten (10) years. The board may at the time it makes lands available for leasing in accordance with Section 8 of these rules, specify a primary term of less than ten (10) years for the leases on the lands being made available.

~~(b) The board may extend the term of an existing undeveloped and non-unitized oil and gas lease for a period not to exceed five (5) years, in one-year increments, if it determines that the lessee has been prevented from drilling because of governmental action or regulation, safety issues, to include, but not limited to, proximity to mining operations, permitted surface activities or habitation, and drilling target zone conditions or other causes beyond the lessee's reasonable control. Rig availability, financing, geological or geophysical reviews weather conditions, and product pricing shall not be considered as causes beyond the lessee's reasonable control, but ordinary to the business. A single extension request may be considered based on weather where the attempt to prudently drill prior to the expiration of the lease primary term was negated by unseasonable weather conditions. Such extensions shall be on the express condition that the lessee commence drilling operations on the leased lands within the extended term and drill the well diligently to completion as a dry hole, producing well, or, after commencement of drilling operations, loses the hole due to uncontrollable downhole conditions.~~

As a further condition, the lessee shall agree to pay liquidated damages if the well is not commenced and completed or unavoidably lost in accordance with the terms of the extension. The lessee shall furnish a \$10,000.00 cash bond in the form of a certified or cashiers check made payable to the Wyoming State Land Office, or a \$10,000.00 certificate of deposit in the name of the Director, Wyoming State Land Office as an amount approved by the board to secure the payment of such liquidated damages, refundable upon lessee's fulfillment of lease drilling requirements, or usable



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4000 Morrie Avenue
Cheyenne, Wyoming 82001

ES-61411
ma/W.02/WY1877.ma

August 17, 1998

Bill McMahan, Project Manager
Rock Springs District
280 Highway 191 North
Rock Springs, Wyoming 82901

Dear Mr. McMahan:

Thank you for your scoping notice of July 9, regarding the proposed Ultra Resources, Inc., et al. Pinedale Anticline natural gas field development project in the Pinedale Resource Area, Sublette County, Wyoming. The following provides a list of threatened and endangered species that may occur within or near the project area. In addition, the U.S. Fish and Wildlife Service (Service) has concerns with the following issues, and requests that they receive full treatment in the analysis of this project.

Cumulative Effects: We are concerned that oil and gas development in Wyoming is proceeding at a pace that may be harmful to wildlife and its habitat. Evaluation of effects associated with one or two projects at a time does not allow for adequately quantifying the effects of widespread development that is occurring across this area. Larger-scale evaluations, such as Resource Management Plans, typically lack detail on specific effects and contain only estimates of the actual level of development that will be requested by the energy industry. Individual environmental assessments frequently contain only brief references to other oil and gas development in the vicinity and do not usually evaluate effects associated with overall field development, especially in the context of development on nearby oil and gas fields. The Service requests this analysis include a cumulative effects analysis that describes and quantifies the effects of all oil and gas related activities in the area. The Service recommends that the cumulative effects discussion address short- and long-term effects to the species mentioned below as well as migratory birds, especially raptors.

Endangered/Threatened Species: In accordance with section 7(c) of the Endangered Species Act of 1973, as amended (Act), my staff has determined that the following threatened or endangered species may be present in the project area.

<u>Species</u>	<u>Status</u>	<u>Expected Occurrence</u>
Bald eagle (<i>Haliaeetus leucocephalus</i>)	Threatened	Nesting. Winter resident. Migrant.
Black-footed ferret (<i>Mustela nigripes</i>)	Endangered	Potential resident in prairie dog (<i>Cynomys</i> sp.) colonies.
Peregrine falcon (<i>Falco peregrinus</i>)	Endangered	Nesting. Migrant.
Whooping crane (<i>Grus americana</i>)	Endangered	Resident. Migrant.

Black-footed ferrets may be affected if prairie dog colonies are impacted. If white-tailed prairie dog (*Cynomys leucurus*) colonies or complexes greater than 200 acres will be disturbed, surveys for ferrets should be conducted even if only a portion of the colony or complex will be disturbed. If a field check indicates that prairie dog towns may be affected, you should contact this office for guidance on ferret surveys.

We have determined that bald eagle nests occur within the project area. Surveys should be conducted for roost and additional nest sites. If it is determined that the proposed activities may affect this species or any of the other listed species, you should contact this office to discuss consultation requirements.

If the proposed action will lead to water depletion (consumption) in the Colorado River System, impacts to the following species should be included in the evaluation:

Colorado squawfish (<i>Ptychocheilus lucius</i>)	Endangered	Downstream resident of Green River System.
Bonytail (<i>Gila elegans</i>)	Endangered	"
Humpback chub (<i>Gila cypha</i>)	Endangered	"
Razorback sucker (<i>Xyrauchen texanus</i>)	Endangered	"

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.

<u>Species</u>	<u>Expected Occurrence</u>
Mountain plover <i>Charadrius montanus</i>	Grasslands statewide
Swift fox <i>Vulpes velox</i>	Grasslands statewide

The Service has recently completed the status review of the mountain plover. Available data indicate that population numbers are declining rangewide and suggest that listing this species as either threatened or endangered is warranted. Because a proposal to list this species is likely, the Service recommends surveys for mountain plovers to minimize negative impacts to nesting birds. Mountain plover breeding and wintering habitats are known to include grasslands, mixed grassland areas and short-grass prairie, shrub-steppe, plains, alkali flats, agricultural lands, cultivated lands, sod farms, and prairie dog towns. Plovers may nest on sites where vegetation is sparse or absent, or near closely cropped areas, manure piles or rocky areas. Their habitat may include sparsely vegetated areas around sagebrush. Mountain plovers are rarely found near water and show a preference for previously disturbed areas or modified habitat. If a field check indicates that mountain plover habitat may be affected, you should contact us for guidance on plover surveys.

The swift fox is a candidate species for which the Service has recently determined that listing is warranted but precluded at this time. Despite its listing being precluded at this time by other higher priority actions, the Service remains concerned regarding the status of this species. In view of the probable future listing of this species, we recommend that any assessment also analyze potential adverse effects of the proposed project on the swift fox.

Migratory Birds: The Migratory Bird Treaty Act, 16 U.S.C. 703, enacted in 1918, prohibits the taking of any migratory birds, their parts, nests, or eggs except as permitted by regulations and does not require intent to be proven. Section 703 of the Act states, "Unless and except as permitted by regulations ... it shall be unlawful at any time, by any means or in any manner, to ... take, capture, kill, attempt to take, capture, or kill, or possess ... any migratory bird, any part, nest, or eggs of any such bird..." The Bald and Golden Eagle Protection Act, 16 U.S.C. 668, prohibits knowingly taking, or taking with wanton disregard for the consequences of an activity, any bald or golden eagles or their body parts, nests, or eggs, which includes collection, molestation, disturbance, or killing.

Work that could lead to the take of a migratory bird or eagle, their young, eggs, or nests (for example, if you are going to erect new well sites, roads, or power lines in the vicinity of a nest), should be coordinated with our office before any actions are taken. Removal or destruction of such nests, or causing abandonment of a nest could constitute violation of the above statutes. Removal of nests or nest trees is prohibited, but may be allowed once young have fledged and/or a permit has been issued. In either case, timing is a significant consideration and you need to allow for this in your project planning. We also recommend the project area be surveyed for raptor nests and roost areas.

To minimize effects on nesting raptors and the possibility of "take" under the Migratory Bird Treaty Act, the Service believes protective/mitigation measures are necessary and best accomplished by outlining specific measures to minimize effects and the potential for "take." Any analysis of the project and any raptor management section should address potential adverse effects including habitat loss or degradation, nest abandonment, and electrocution/collision hazards to raptors and specifically outline all measures that will be implemented to minimize adverse effects to these species. Your planning document should describe proposed protective measures including, but not limited to: possible timing restrictions for construction, establishment of buffer zones around raptor nests, proper raptor-proofing of power lines, and placement of multiple wells on one pad to minimize site disturbance. Projects that create electrocution/collision hazards should include a monitoring program to detect problem areas.

Wetlands/Riparian Areas: In meeting their responsibilities for wetland protection and conservation, all action agencies should assure that proposed activities do not result in the taking of any Federal trust wildlife resources nor lead to the contamination of water sources. The Service recommends 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." If wetlands may be destroyed or degraded by the proposed action, those (wetlands) in the project area should be inventoried and fully described in terms of functions and values. Acreage of wetlands, by type, should be disclosed and specific actions outlined to minimize effects and compensate for all unavoidable wetland impacts.

Riparian or streamside areas are a valuable natural resource and adverse effects to these areas should be avoided whenever possible. 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, effects to such streamside and riparian areas should be avoided. Any potential, unavoidable encroachment into these areas should be minimized and quantitatively assessed in terms of functions and values, areas and vegetation type lost, potential effects on wildlife, and streams (bank stability and water quality). Measures to compensate for unavoidable losses of riparian areas should be developed and implemented as part of the project.

Plants: Currently, no plant species in the project area are listed as threatened or endangered. However, Federal agencies are encouraged to consider sensitive species or species at risk in project review. Your consideration of these species is important in preventing the need to include them to the Endangered Species List. The Wyoming Natural Diversity Database maintains the most current information on sensitive plants in Wyoming. The database must charge for data retrieval to financially support the database and staff. The staff can be contacted at (307) 766-3441.

Water Quality/Habitat Quality: We are concerned with water quality impacts of the proposed project, particularly with respect to their effects on fisheries, migratory birds, and federally listed threatened or endangered species. The analysis should describe project activities that may affect water quality or that have the potential to expose fish and wildlife to hazardous substances. Such activities may include, but are not limited to: wastewater discharges, transportation of hazardous materials, spills, and wastewater ponds. Wastewater ponds containing oil could attract and kill migratory birds and other wildlife. An estimated 2 million waterfowl are lost each year to oil pits throughout the United States. Birds are attracted to oil pits by mistaking them for natural bodies of water. The sticky nature of oil entraps birds in the pits and they die from exposure and exhaustion. Birds that do manage to escape can die from starvation or the toxic effects of oil ingested during preening. Waterfowl ingesting sublethal doses of oil can experience impaired reproduction. Additionally, female aquatic birds returning to their nests with oil on their feathers can inadvertently apply the oil to the eggs. Microliter amounts of oil applied externally to eggs are extremely toxic to bird embryos. Scavengers and predators can also suffer adverse effects by consuming oiled birds.

A study of bird mortality in oil pits in Wyoming conducted by Brent J. Esmoil for the University of Wyoming demonstrated that deterrents such as flagging, strobe lights, metal reflectors and noise makers were not effective at preventing bird mortalities from occurring in these pits. Esmoil did not find any mortality in pits completely covered with netting or wire mesh. The analysis should address measures to prevent migratory and other wildlife mortality in oil/gas field production pits.

Nongame Wildlife and Fish: In addition to Federal threatened and endangered species, we are concerned about negative effects, both direct and indirect, to nongame fish and wildlife. Unless a species is listed, analyses generally do not address negative effects to non-game species, other than raptors. As development proceeds, a great deal of land is being leased. Predominant habitat types found on these lands are riparian and sagebrush grassland habitats. Riparian habitat is especially valuable to wildlife in Wyoming both for its great floral and structural diversity. In the arid West, these habitats cover less than 2% of the landscape but are used by up to 80% of the bird species. In Wyoming, 27 of the 117 nongame bird species (23%) on the State Partners In Flight (PIF) high priority conservation planning list primarily use riparian habitats for breeding. Because of this and the generally degraded condition of riparian habitat in the State, Wyoming PIF has designated riparian habitat as its highest management priority. Sagebrush habitat is important to many nongame species. Sagebrush grassland birds of concern for PIF include sage thrasher, sage sparrow, and Brewer's sparrow. The analysis should include activities that may affect these and other nongame species.

Biological Assessment: Section 7(c) of the Act requires that a biological assessment be prepared for any Federal action that is a major construction activity to determine the effects of the proposed action on listed and proposed species. If a biological assessment is not required (i.e., all other actions), the lead agency is responsible for review of proposed activities to determine

whether listed species will be affected. We would appreciate the opportunity to review any such determination document.

For those actions where a biological assessment is necessary, it should be completed within 180 days of receipt of a species list, but can be extended by mutual agreement between the lead agency and the Service. If the assessment is not initiated within 90 days of receipt of a species list, the list of threatened and endangered species should be verified with us prior to initiation of the assessment. The biological assessment may be undertaken as part of the agency's compliance of section 102 of the National Environmental Policy Act (NEPA), and incorporated into the NEPA documents. The Service recommends that biological assessments include:

1. a description of the project;
2. a description of the specific area potentially affected by the action;
3. the current status, habitat use, and behavior of threatened and endangered species in the project area;
4. discussion of the methods used to determine the information in item 3;
5. direct and indirect impacts of the project to threatened and endangered species;
6. an analysis of the effects of the action on listed and proposed species and their habitats including cumulative impacts from Federal, State, or private projects in the area;
7. measures that will reduce or eliminate adverse effects to threatened and endangered species;
8. the expected status of threatened and endangered species in the future (short and long term) during and after project completion;
9. determination of "is likely to adversely affect" or "is not likely to adversely affect" for listed species;
10. determination of "is likely to jeopardize" or "is not likely to jeopardize" for proposed species;
11. citation of literature and personal contacts used in the assessment.

If it is determined that any Federal agency program or project "is likely to adversely affect" any listed species, formal consultation should be initiated with this office. Alternatively, informal consultation can be continued so we can work together to determine how the project could be modified to reduce impacts to listed species to the "not likely to adversely affect" threshold. If it is concluded that the project "is not likely to adversely affect" listed species, we should be asked to review the assessment and concur with the determination of not likely to adversely affect.

A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare biological assessments. However, the ultimate responsibility for section 7 compliance remains with the Federal agency, and written notice should be provided to the Service upon such a designation. We recommend that Federal agencies provide their non-Federal representatives with proper guidance and oversight during preparation of biological assessments and evaluation of potential impacts to listed species.

Section 7(d) of the Act requires that the Federal agency and permit or license applicant shall not make any irreversible or irretrievable commitment of resources which would preclude the formulation of reasonable and prudent alternatives until consultation on listed species is completed.

These preliminary scoping comments are made pursuant to the National Environmental Policy Act, the Endangered Species Act and Fish and Wildlife Coordination Act. Please keep this office informed of any developments or decisions concerning this project.

We appreciate your efforts to ensure the conservation of endangered, threatened, and candidate species, migratory birds and wetlands. Please keep this office informed of any developments or decisions concerning this project. If you have any questions or concerns regarding these comments, please contact Mandy Allen of my staff at the letterhead address or phone (307) 772-2374, extension 29.

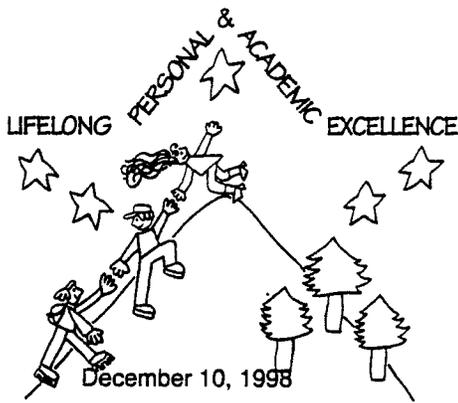
Sincerely,



Michael M. Long
Field Supervisor
Wyoming Field Office

c.c. Director, WGFD, Cheyenne, Wy.
Nongame Coordinator, WGFD, Lander, Wy
Archie Reeve, PIC Technologies, Inc., Laramie, Wy

Letter Four



Sublette County School District #1

P.O. Box 549 • Pinedale, Wyoming 82941

RECEIVED

DEC 7 6 1998

Dept. of The Interior
Bureau Of Land Management
Rock Springs, Wyoming

William B. McMahan, Resource Advisor
U. S. Department of the Interior
Bureau of Land Management
Rock Springs District
280 Highway 191 North
Rock Springs, WY 82901

Dear Mr. McMahan:

For the past several years our district has observed the gas exploration in the Jonah Field with great interest. The district is in the position of being positively impacted by the development of the Jonah Field project. While we presently educate 627 K-12 students, our capacity as a district is much greater - we are likely able to educate 150-200 students more with little infrastructure impact on the district.

Our projections indicate that with some modifications we can educate up to 300 high school students (100 more than presently), 250 middle school students (100 more than presently) and, through different use of existing elementary classrooms, between 350-400 elementary students (50-100 more than at present). In short, our district schools are built with an eye to future growth.

Aside from having buildings which can educate more students, frequently districts our size can only offer minimal programs to students, though these programs are of exceptionally high quality. Many of the classes we offer could handle more students; thus, we could more efficiently use existing staff and resources if the district had more students.

While the district itself is not the direct beneficiary of tax dollars, due to state equalization of school revenues, district revenues would increase if it had more students or Average Daily Membership, ADM.

Consequently, from the standpoint of community development and the use of the community infrastructure represented by education, our district is supportive of the exploration and development of the Pinedale Anticline.

As various considerations are factored, I would hope that the benefit the project would have for the community would be given due merit. As a district, we endeavor to provide the best education possible given the resources provided by the state. Growth, afforded by the Jonah project, would benefit the education of our students, and, hopefully, the education we provide would be attractive to the families that reside in our community.

I hope this brief analysis is useful to address concerns expressed in the documentation related to "Socioeconomic Scoping Issues". I will be happy to provide documentation or further analysis regarding our schools, if it would be useful.

Sincerely,

Jerry Wilson, Ph.D.
Superintendent

PC: Rose Skinner, Mayor of Pinedale
Charlotte Kauffman, Ultra Resources, Inc.
Mary Lankford, Sublette County Clerk

High School
367-2137

Central Administration
367-2139

Bondurant
733-3524

Middle School
367-2821

Elementary School
367-2828

Fascimile
367-4626



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4000 Airport Parkway
Cheyenne, Wyoming 82001



ES-61411
kh /W.99 (wy2809.kh)

August 26, 1999

Archie Reeve
PIC Technologies Inc.
309 South 4th Street Suite 201
Laramie, WY 82070

Dear Mr. Reeve:

This letter is in regards to your request for a new species list for the Pinedale Anticline in Sublette County, Wyoming.

In accordance with section 7(c) of the Endangered Species Act of 1973, as amended (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.

Listed and Proposed Species

<u>Species</u>	<u>Status</u>	<u>Expected Occurrence</u>
Mountain plover (<i>Charadrius montanus</i>)	Proposed	Grasslands statewide.
Bald Eagle (<i>Haliaeetus leucocephalus</i>)	Threatened	Nesting. Winter resident. Migrant.
Black-footed ferret (<i>Mustela nigripes</i>)	Endangered	Potential resident in prairie dog (<i>Cynomys</i> sp.) colonies.
Canada lynx (<i>Lynx canadensis</i>)	Proposed	Resident of forested areas.

Black Footed Ferret

Black-footed ferrets may be affected if prairie dog colonies are impacted. If black-tailed prairie dog (*Cynomys ludovicianus*) colonies or complexes greater than 79 acres or white-tailed prairie dog (*C. leucurus*) colonies or complexes greater than 200 acres will be disturbed, surveys for ferrets should be conducted even if only a portion of the colony or complex will be disturbed. If a field check indicates that prairie dog towns may be affected, you should contact this office for guidance on ferret surveys.

Mountain Plover

In the Federal Register dated February 16, 1999, the U.S. Fish and Wildlife Service gave notice of a proposal to list the mountain plover (*Charadrius montanus*) as a threatened species pursuant to the Endangered Species Act of 1973, as amended (Act). Available data indicate that population numbers have declined range-wide by more than 50 percent since 1966 to fewer than

10,000 birds. The mountain plover is a small bird associated with shortgrass prairie, plains, alkali flats, agricultural lands, cultivated lands, sod farms, prairie dog towns, and shrub-stepped landscapes at both breeding and wintering locales. Plovers may nest on sites where vegetation is sparse or absent, or near closely cropped areas, manure piles or rocky areas. Mountain plovers are rarely found near water and show a preference for previously disturbed areas or modified habitat. It occupies suitable breeding habitat in many of the Great Plains states from Canada south to Texas from late March through July. Mountain plovers may be present on the project area if suitable habitat is present.

The best time to survey for this species is during the nesting period. Therefore, you will need to wait until next year to actually do a species survey. You should, however, see if suitable breeding and nesting habitat is present this year. We have enclosed some information about the mountain plover which should help you make this determination. Survey guidelines are also enclosed.

If the proposed action will lead to water depletion (consumption), or contamination in the Platte or Colorado River Systems, impacts to the following species should be included in the evaluation:

Interior least tern (<i>Sterna antillarum</i>)	Endangered	Downstream resident of Platte River
Piping Plover (<i>Charadrium melodus</i>)	Threatened	“ ”
Pallid sturgeon (<i>Scaphirhynchus albus</i>)	Endangered	“ ”
Eskimo curlew (<i>Numenius borealis</i>)	Endangered	“ ”
Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	“ ”
Bonytail (<i>Gila elegans</i>)	Endangered	Downstream resident of Green River System.
Colorado pikeminnow (<i>Ptychocheilus lucius</i>)	Endangered	“ ”
Humpback chub (<i>Gila cypha</i>)	Endangered	“ ”
Razorback sucker (<i>Xyrauchen texanus</i>)	Endangered	“ ”

Candidate Species

The swift fox (*Vulpes velox*) is the smallest member of the North American canids (4.6-6.4 pounds), about the size of a house cat. It can be separated easily from the more common red fox (*Vulpes vulpes*) by its small size and black-tipped, rather than white-tipped tail. The fur is orange-yellow above with frosty or black tips. Side and belly fur is white or light yellow. It prefers shortgrass prairie habitat, but may be found throughout the state in areas generally lacking tall grass, shrubs or woody vegetation and where topography is flat or gently rolling. Several studies have documented a close association between the swift fox and prairie dog (*Cynomys*

spp.) colonies. Declines are thought to be due to conversion of native habitat to for cultivation and competition or predation by coyotes (*Canis latrans*) and red fox.

Migratory Birds

Please recognize that consultation on listed species does not remove your obligation to protect the many species of birds, raptors, and eagles protected under the Migratory Bird Treaty Act (MBTA) and Bald and Golden Eagle Protection Act (BGEPA).

The MBTA, 16 U.S.C. 703, enacted in 1918, prohibits the taking of any migratory birds, their parts, nests, or eggs, except as permitted by regulations, and does not require intent to be proven. Section 703 of the Act states, "Unless and except as permitted by regulations ... it shall be unlawful at any time, by any means or in any manner, to ... take, capture, kill, attempt to take, capture, or kill, or possess ... any migratory bird, any part, nest, or eggs of any such bird..." The BGEPA, 16 U.S.C. 668, prohibits knowingly taking, or taking with wanton disregard for the consequences of an activity, any bald or golden eagles or their body parts, nests, or eggs, which includes collection, molestation, disturbance, or killing.

Work that may adversely affect a migratory bird or eagle, their young, eggs, or nests (for example, building a road or structure in the vicinity of a nest), should be coordinated with our office before any actions are taken. Removal or destruction of such nests, or causing abandonment of a nest could constitute violation of the above statutes. Removal of nests or nest trees is prohibited, but may be allowed once young are fledged and/or a permit has been issued. In either case, timing is a significant consideration and you need to allow for this in your project planning.

To minimize impacts on nesting raptors and the possibility of "take" under the Migratory Bird Treaty Act, protective/mitigation measures may be necessary. Any analysis of the project should address potential adverse impacts including habitat loss or degradation, nest abandonment, and electrocution/collision hazards to raptors and specifically outline all measures that will be implemented to minimize adverse effects to these species. Your planning documents should describe proposed protective measures including, but not limited to: possible timing restrictions for construction and establishment of buffer zones around raptor nests. In addition, the project area should be surveyed to locate any raptor nests or roost areas.

Wetlands/Riparian Areas

The Service recommends 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." If wetlands may be destroyed or degraded by the proposed action, those (wetlands) in the project area should be inventoried and fully described in terms of functions and values. Acreage of wetlands, by type, should be disclosed and specific actions outlined to minimize impacts and compensate for all unavoidable wetland impacts.

Riparian or streamside areas are a valuable natural resource and impacts to these areas should be avoided whenever possible. 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. Any potential, unavoidable encroachment into these areas should be minimized and quantitatively assessed in terms of functions and values, areas and vegetation type to be lost, and potential effects on wildlife and streams (bank stability and water quality). Measures to fully compensate for unavoidable losses to riparian areas should be developed and implemented as part of the project. The Service typically recommends replacement ratios ranging from 1.5:1 to 4:1 for riparian habitat, depending on the type and timing of mitigation proposed.

Plans for mitigating unavoidable impacts to wetland and riparian areas should include mitigation goals and objectives, methodologies, time frames for implementation, success criteria, and monitoring to determine if the mitigation is successful. The mitigation plan should also include a contingency plan to be implemented should the mitigation not be successful.

If you have any questions please contact Kelly Hollenbeck of my staff at the letterhead address or phone (307) 772-2374 extension 31.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael M. Long". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Michael M. Long
Field Supervisor
Wyoming Field Office

Enclosure

cc: Director, WGFD, Cheyenne, WY
Nongame Coordinator, WGFD, Lander, WY