

APPENDIX D CONCURRENCE LETTER FROM U.S. FISH AND WILDLIFE SERVICE



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/WY7215

June 6, 2003

Memorandum

To: Ted Murphy, Acting Field Manager, Bureau of Land Management, Rock Springs Field Office, Rock Springs, Wyoming

From: Jodi L. Bush, Acting Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming *JLB*

Subject: Kennedy Coal Bed Methane Pilot Project, Request for Concurrence

Thank you for your May 12, 2003, request for concurrence under section 7 of the Endangered Species Act of 1973, as amended (50 CFR §402.13) for the Kennedy Coal Bed Methane pilot project in Sweetwater County, Wyoming. Kennedy Oil is proposing developing two pods, with a total of 20 wells, plus 2 water injection wells. Well spacing would be 160 acres. Our office has previously provided scoping comments on this project, including a species list, in a memorandum dated April 1, 2002.

Based on information collected within the project area, your office has determined there will be 'no effect' of the proposed action on the bald eagle (*Haliaeetus leucocephalus*), whooping crane (*Grus americana*), Ute ladies'-tresses (*Spiranthes diluvialis*) or downstream species associated with the Colorado or North Platte River systems. Concurrence is not required from the U.S. Fish and Wildlife Service (Service) for 'no effect' determinations. However, we do appreciate receiving the supporting information used in your determination. Please be advised that the whooping crane is considered extirpated from Wyoming. Therefore, future consultation on this species is not necessary. Because the Bureau of Land Management has not made an effect determination for the black-footed ferret (*Mustela nigripes*) we are not providing concurrence for this species at this time.

We concur with your determination of 'not likely to jeopardize' for the mountain plover (*Charadrius montanus*) due to your commitment to restrict any surface disturbing activities in

suitable mountain plover habitat from April 10 through July 10. We appreciate your commitment to re-initiate consultation should this species become listed.

This concludes informal consultation pursuant to the regulations implementing the Act. This Project should be re-analyzed if new information reveals effects of the action that may affect listed or proposed species or designated or proposed critical habitat in a manner or to an extent not considered in this consultation; if the action is subsequently modified in a manner that causes an effect to a listed or proposed species or designated or proposed critical habitat that was not considered in this consultation; and/or, if a new species is listed or critical habitat is designated that may be affected by this Project.

We appreciate your efforts to ensure the conservation of endangered and threatened species, and look forward to receiving the information necessary for completing consultation on the black-footed ferret. We also look forward to continuing work with your staff on other issues identified in our scoping letter of April 1, 2002, including potential impacts to migratory birds, sage grouse, wildlife habitat fragmentation, pollution from coal-bed methane development, wetlands, project design, and cumulative habitat effects. If you have further questions regarding our comments or your responsibilities under the Act, please contact Pat Deibert of my staff at the letterhead address or phone (307) 772-2374, extension 26.

cc: WGFD, Lander, Non-Game Coordinator (B.Oakleaf)
WGFD, Cheyenne, Statewide Habitat Protection Coordinator (T.Collins)



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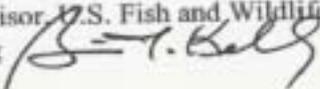


In Reply Refer To:
ES-61411/W.02/WY7360

July 14, 2003

Memorandum

To: Ted Murphy, Acting Field Manager, Bureau of Land Management, Rock Springs Field Office, Rock Springs, Wyoming

From: Brian T. Kelly, Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming 

Subject: Kennedy Coal Bed Methane Pilot Project, Request for Concurrence on Black-footed Ferrets

Thank you for your June 24, 2003, request for concurrence under section 7 of the Endangered Species Act of 1973, as amended (50 CFR §402.13) for the Kennedy Coal Bed Methane pilot project in Sweetwater County, Wyoming. Kennedy Oil is proposing developing two pods, with a total of 20 wells, plus 2 water injection wells. Well spacing would be 160 acres. Our office has previously provided concurrence with a "no jeopardy" determination under section 7 for the proposed mountain plover (*Charadrius montanus*) in a letter dated June 6, 2003. We were unable to assess the potential impacts of the project on the endangered black-footed ferret (*Mustela nigripes*) at that time because of insufficient information.

Based on information collected within the project area, your office has determined there will be 'no effect' of the proposed action on the black-footed ferret. Your determination is based on the commitment to avoid all prairie dog towns and burrows in the placement of the access road, as per your June 24 letter, and a phone conversation between Jim Dunder of your staff and Pat Deibert of my staff on July 14, 2003. Concurrence is not required from the U.S. Fish and Wildlife Service (Service) for 'no effect' determinations. However, we do appreciate receiving the supporting information used in your determination. Please be advised that if the road cannot be re-aligned to avoid the prairie dog towns and burrows, black-footed ferret surveys should be conducted, and you should re-initiate consultation with our office.

This concludes informal consultation pursuant to the regulations implementing the Act. This Project should be re-analyzed if new information reveals effects of the action that may affect listed or proposed species or designated or proposed critical habitat in a manner or to an extent not considered in this consultation; if the action is subsequently modified in a manner that causes an effect to a listed or proposed species or designated or proposed critical habitat that was not considered in this consultation; and/or, if a new species is listed or critical habitat is designated that may be affected by this Project.

We appreciate your efforts to ensure the conservation of endangered and threatened species. If you have further questions regarding our comments or your responsibilities under the Act, please contact Pat Deibert of my staff at the letterhead address or phone (307) 772-2374, extension 26.

cc: WGFD, Lander, Non-Game Coordinator (B.Oakleaf)
WGFD, Cheyenne, Statewide Habitat Protection Coordinator (T.Collins)