



COLORADO

Parks and Wildlife

Department of Natural Resources

Southeast Region
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Colorado Springs, CO 80907
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RECEIVED

JAN 22 2018

**DIVISION OF RECLAMATION
MINING AND SAFETY**

January, 3 2018

Amy Eschberger
Colorado Division of Reclamation, Mining and Safety
Environmental Protection Specialist
1313 Sherman Street, Room 215
Denver, CO 80203

RE: Hitch Rack Ranch Quarry, File No, M-2017-049

Dear Ms. Eschberger:

Colorado Parks and Wildlife (CPW) is in receipt of the above referenced quarry lease application and is familiar with the site. CPW has reviewed this updated application, and it appears that TransitMix Concrete Co. incorporated many of the recommendations from our April 2016 letter.

Based on the phased approach proposed in the mining plan, ground disturbance could take place at different times during the course of site development. One additional recommendation CPW has for this updated application is that the operator conduct surveys at each location before any vegetation is removed to reduce the chance of take of protected migratory birds and avoid impacts to raptor nesting efforts.

There is suitable habitat on the site for migratory birds. The best way to avoid impacts on the nesting efforts of migratory birds is to focus construction activities outside of the breeding season (March 15th -October 31st). If construction must occur during the breeding season, CPW recommends surveys for active nests be conducted prior to groundbreaking. All migratory birds are protected under the Migratory Bird Treaty Act and removal or disturbance of any migratory bird nest would require consultation with CPW and USFWS prior to disturbance. CPW recommends the use of preconstruction surveys, as well as continuation of those surveys during disturbance periods, to identify all raptor nests within the project area and implement appropriate restrictions. CPW recommends adherence to the recommended buffer distances and timing stipulations identified in the attached document "Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors". Removal or relocation of any active raptor nest will require consultation with CPW and US Fish and Wildlife Service prior to disturbance. Both active and potential raptor nest sites, as well as winter night roosts should be considered when evaluating disturbance during construction.



CPW appreciates being given the opportunity to comment. Please feel free to contact District Wildlife Manager, Cody Wigner, should you have any questions or require additional information at 719-227-5287 or via email at cody.wigner@state.co.us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank McGee".

Frank McGee
Area Wildlife Manager

Attachment: April 2016 Comment Letter

Cc: SE Region File
Area 14 File
Cody Wigner, DWM



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**DIVISION OF RECLAMATION
MINING AND SAFETY**

April 18, 2016

Amy Eschberger
Colorado Division of Reclamation, Mining and Safety
Environmental Protection Specialist
1313 Sherman Street, Room 215
Denver, CO 80203

RE: Notice of 112 Construction Materials Reclamation Permit Application Consideration
Transit Mix Concrete Co., Hitch Rack Ranch Quarry, File No, M-2016-010

Dear Ms. Eschberger:

Colorado Parks and Wildlife (CPW) is in receipt of the above referenced quarry lease application and is familiar with the site. Transit Mix Concrete has already met with CPW and the United States Fish and Wildlife Service (USFWS) about the proposed quarry. Based on the location of the proposed quarry, both CPW and USFWS instructed Transit Mix Concrete to perform surveys for the federally and state threatened Mexican spotted owl, since it is known habitat for the species.

CPW notices that the mining operation is set to take place around Little Turkey Creek. All wetland areas should be buffered a minimum of 100 feet from the outside edge of the creek. Any development, surface disturbance, and outbuildings should be discouraged except where necessary for mining operations. Additionally, hydrological flows that support wetlands should remain undisturbed and not impeded.

Natural vegetation should not be altered unless for purposes necessary to the mining operation. Native grasses and forbs should be maintained and mowing strongly discouraged except as required around the immediate areas of buildings and mining operations.

The control of noxious weeds is the responsibility of the landowner. Noxious weeds shall be actively controlled using methods such as mowing and spraying. Species specific control measures should be used when pesticides are felt necessary for the control of noxious weeds. All equipment that is entering the site from a different location should be cleaned of all soil and vegetation to help prevent the spread of noxious weeds.

If any fencing is to be used, wildlife friendly fencing should be utilized. CPW will provide information on wildlife friendly fencing upon request.





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Due to the presence of black bears on the property, CPW recommends that the operators of the facility invest in bear-proof trash containers if trash is going to be present on the facility. Trash containers should be stored in a garage or in a solid locked storage shed until the morning of trash collection during those months when bears are most active (April - November).

Feeding of big game species is illegal in Colorado. This includes putting out salt blocks, hay, grain, or other items to attract big game. The use of bird feeders should be strongly discouraged from April through November to avoid conflicts with black bears.

Once mining is complete, all reclamation efforts could have potentially significant value to wildlife. To maximize this benefit, CPW recommends that the mining site be returned to the same condition as prior to being mined. Planting of trees and shrubs attractive to wildlife is encouraged. Reseeding of grasses and forbs over large areas should be a mix of warm and cool season plants that are palatable and attractive to wildlife. All vegetation used in reclamation should be species that are native to Colorado and present in the region. For further consultation, contact CPW.

CPW appreciates being given the opportunity to comment. Please feel free to contact District Wildlife Manager, Cody Wigner, should you have any questions or require additional information at 719-227-5287 or via email at cody.wigner@state.co.us.

Sincerely,

Frank McGee
Area Wildlife Manager

Cc: SE Region File
Area 14 File
Cody Wigner, DWM





RECOMMENDED BUFFER ZONES AND SEASONAL RESTRICTIONS FOR COLORADO RAPTORS

Tolerance limits to disturbance vary among as well as within raptor species. As a general rule, Ferruginous Hawks and Golden Eagles respond to human activities at greater distances than do Ospreys and America Kestrels. Some individuals within a species also habituate and tolerate human activity at a proximity that would cause the majority of the group to abandon their nests. Other individuals become sensitized to repeated encroachment and react at greater distances. The tolerance of a particular pair may change when a mate is replaced with a less tolerant individual and this may cause the pair to react to activities that were previously ignored. Responses will also vary depending upon the reproductive stage. Although the level of stress is the same, the pair may be more secretive during egg laying and incubation and more demonstrative when the chicks hatch.

The term "disturbance" is ambiguous and experts disagree on what actually constitutes a disturbance. Reactions may be as subtle as elevated pulse rate or as obvious as vigorous defense or abandonment. Impacts of disturbance may not be immediately evident. A pair of raptors may respond to human intrusion by defending the nest, but well after the disturbance has passed, the male may remain in the vicinity for protection rather than forage to feed the nestlings. Golden eagles rarely defend their nests, but merely fly a half mile or more away and perch and watch. Chilling and over heating of eggs or chicks and starvation of nestlings can result from human activities that appeared not to have caused an immediate response.

A 'holistic' approach is recommended when protecting raptor habitats. While it is important for land managers to focus on protecting nest sites, equal attention should focus on defining important foraging areas that support the pair's nesting effort. Hunting habitats of many raptor species are extensive and may necessitate interagency cooperation to assure the continued nest occupancy. Unfortunately, basic knowledge of habitat use is lacking and may require documentation through telemetry investigations or intensive observation. Telemetry is expensive and may be disruptive so a more practical approach is to assume that current open space is important and should be protected.

Although there are exceptions, the buffer areas and seasonal restrictions suggested here reflect an informed opinion that if implemented, should assure that the majority of individuals within a species will continue to occupy the area. Additional factors, such as intervening terrain, vegetation screens, and the cumulative impacts of activities should be considered.

These guidelines were originally developed by CDOW raptor biologist Gerald R. Craig (retired) in December 2002. To provide additional clarity in guidance, incorporate new information, and update the conservation status of some species, the guidelines were revised in January 2008. Further revisions of this document may become necessary as additional information becomes available.

RECOMMENDED BUFFER ZONES AND SEASONAL RESTRICTIONS

BALD EAGLE

Nest Site:

No surface occupancy (beyond that which historically occurred in the area; see 'Definitions' below) within ¼ mile radius of active nests (see 'Definitions' below). Seasonal restriction to human encroachment (see 'Definitions' below) within ½ mile radius of active nests from October 15 through July 31. This closure is more extensive than the National Bald Eagle Management Guidelines (USFWS 2007) due to the generally open habitat used by Colorado's nesting bald eagles.

Winter Night Roost:

No human encroachment from November 15 through March 15 within ¼ mile radius of an active winter night roost (see 'Definitions' below) if there is no direct line of sight between the roost and the encroachment activities. No human encroachment from November 15 through March 15 within ½ mile radius of an active winter night roost if there is a direct line of sight between the roost and the encroachment activities. If periodic visits (such as oil well maintenance work) are required within the buffer zone after development, activity should be restricted to the period between 1000 and 1400 hours from November 15 to March 15.

Hunting Perch:

Diurnal hunting perches (see 'Definitions' below) associated with important foraging areas should also be protected from human encroachment. Preferred perches may be at varying distances from human encroachment and buffer areas will vary. Consult the Colorado Division of Wildlife for recommendations for specific hunting perches.

GOLDEN EAGLE

Nest Site:

No surface occupancy (beyond that which historically occurred in the area) within ¼ mile radius of active nests. Seasonal restriction to human encroachment within ½ mile radius of active nests from December 15 through July 15.

OSPREY

Nest Site:

No surface occupancy (beyond that which historically occurred in the area) within ¼ mile radius of active nests. Seasonal restriction to human encroachment within ¼ mile radius of active nests from April 1 through August 31. Some osprey populations have habituated and are tolerant to human activity in the immediate vicinity of their nests.

FERRUGINOUS HAWK

Nest Site:

No surface occupancy (beyond that which historically occurred in the area) within ½ mile radius of active nests. Seasonal restriction to human encroachment within ½ mile radius of active nests from February 1 through July 15. This species is especially prone to nest abandonment during incubation if disturbed.

RED-TAILED HAWK

Nest Site:

No surface occupancy (beyond that which historically occurred in the area) within 1/3 mile radius of active nests. Seasonal restriction to human encroachment within 1/3 mile radius of active nests from February 15 through July 15. Some members of this species have adapted to urbanization and may

tolerate human habitation to within 200 yards of their nest. Development that encroaches on rural sites is likely to cause abandonment.

SWAINSON'S HAWK

Nest Site:

No surface occupancy (beyond that which historically occurred in the area) within ¼ mile radius of active nests. Seasonal restriction to human encroachment within ¼ mile radius of active nests from April 1 through July 15. Some members of this species have adapted to urbanization and may tolerate human habitation to within 100 yards of their nest.

PEREGRINE FALCON

Nest Site:

No surface occupancy (beyond that which historically occurred in the area) within ½ mile radius of active nests. Seasonal restriction to human encroachment within ½ mile of the nest cliff(s) from March 15 to July 31. Due to propensity to relocate nest sites, sometimes up to ½ mile along cliff faces, it is more appropriate to designate 'Nesting Areas' that encompass the cliff system and a ½ mile buffer around the cliff complex.

PRAIRIE FALCON

Nest Site:

No surface occupancy (beyond that which historically occurred in the area) within ½ mile radius of active nests. Seasonal restriction to human encroachment within ½ mile radius of active nests from March 15 through July 15.

NORTHERN GOSHAWK

No surface occupancy (beyond that which historically occurred in the area) within ½ mile radius of active nests. Seasonal restriction to human encroachment within ½ mile radius of active nests from March 1 through September 15.

BURROWING OWL

Nest Site:

No human encroachment within 150 feet of the nest site from March 15 through October 31. Although Burrowing Owls may not be actively nesting during this entire period, they may be present at burrows up to a month before egg laying and several months after young have fledged. Therefore it is recommended that efforts to eradicate prairie dogs or destroy abandoned towns not occur between March 15 and October 31 when owls may be present. Because nesting Burrowing Owls may not be easily visible, it is recommended that targeted surveys be implemented to determine if burrows are occupied. More detailed recommendations are available in a document entitled "Recommended Survey Protocol and Actions to Protect Nesting Burrowing Owls" which is available from the Colorado Division of Wildlife

Recommended Buffer Zones and Seasonal Restrictions Around Raptor Use Sites

[illegible]

DEFINITIONS

Active nest – Any nest that is frequented or occupied by a raptor during the breeding season, or which has been active in any of the five previous breeding seasons. Many raptors use alternate nests in various years. Thus, a nest may be active even if it is not occupied in a given year.

Active winter night roost – Areas where Bald Eagles gather and perch overnight, and sometimes during the day in the event of inclement weather. Communal roost sites are usually in large trees (live or dead) that are relatively sheltered from wind and are generally in close proximity to foraging areas. These roosts may also serve a social purpose for pair bond formation and communication among eagles. Many roost sites are used year after year.

Human encroachment – Any activity that brings humans in the area. Examples include driving, facilities maintenance, boating, trail access (e.g., hiking, biking), etc.

Hunting perch – Any structure on which a raptor perches for the purpose of hunting for prey. Hunting perches provide a view of suitable foraging habitat. Trees are often used as hunting perches, but other structures may also be used (utility poles, buildings, etc.).

Surface occupancy – Any physical object that is intended to remain on the landscape permanently or for a significant amount of time. Examples include houses, oil and gas wells, tanks, wind turbines, roads, tracks, etc.

CONTACT

For further information contact:

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Bird Conservation Coordinator
Colorado Division of Wildlife
6060 Broadway
Denver, CO 80216
Phone: 303-291-7320
Email: david.klute@state.co.us

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Revised 02/2008



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