



COLORADO

Parks and Wildlife

Department of Natural Resources

Pueblo Service Center
600 Pueblo Reservoir Road
Pueblo, CO 81005
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January 8, 2024

Brock F. Bowles
Division of Reclamation, Mining, and Safety
1001 E 62nd Ave. Room 215
Denver, CO 80203

RE: Edmundson Clay Mine - File No. M-1985-203, Summit Brick & Tile Co. Permit Conversion (CN-1) Conversion Application from a 110c to a 112c permit.

Dear Mr. Bowles,

Colorado Parks and Wildlife (CPW) has received the request to review the application to convert the Edmundson Clay mine from a 110c to a 112c permit. We appreciate the opportunity to review and comment on the proposed project.

CPW has a statutory responsibility to manage all wildlife species in Colorado; as such we encourage protection for Colorado's wildlife species and habitats through responsible energy development and land use planning. Protection of core wildlife areas, quality fisheries and habitat, big game winter range and seasonal migration corridors, and raptor nesting locations are of extreme importance. CPW recommends that all proposed projects be assessed to avoid, minimize, or mitigate impacts to sensitive wildlife habitats and species. That includes species of concern as well as Federal and/or State listed species, big game wildlife (migration corridors, winter range, and parturition areas). This further includes breeding and nesting habitat for sensitive ground-nesting birds and raptors. Raptors are sensitive to development, therefore considerations should be made to eliminate loss and fragmentation of habitat. The US Fish and Wildlife Service should be consulted on any Federally-listed Endangered and Threatened Species that might be present at the location.

After our initial review of the project to increase the acres of the site from 9.8 to 15.8 acres, we have prepared the following comments for your consideration.

Impacts to Wildlife Resources

Big Game Habitat:

The proposed lease area is located within mapped Bighorn Sheep Winter Range and Bighorn Sheep Production Area. Bighorn Sheep may occur within the proposed site. If present human activity may disturb lambing efforts or winter range foraging. However, with the site being proposed at 15.8 acres the overall likelihood of sheep



disturbance is low. The proposed lease area also supports pronghorn and mule deer in their general overall range. Human activity may displace big game from the site area while there is human presence and operations with increased light and noise. If any proposed fencing is to occur, for continued permeability for big game species as the project moves forward, CPW requests that wildlife permeable fencing be used whenever possible to allow for pronghorn and deer movement. Please see the CPW document "Fencing with Wildlife in Mind" available at the CPW website.

Burrowing Owls:

Burrowing owls are listed as State Threatened, and nest in active or inactive prairie dog (black-tailed or white-tailed) burrows. If development is proposed to occur in a prairie dog colony that has been active within the past 10 years, CPW recommends the adherence to CPW's Burrowing Owl survey protocol if development occurs from March 15 through August 31.

Mountain Plovers:

The proposed lease area is located within mapped potential nesting habitats for Mountain Plovers. If there is suitable nesting habitat on site and the initial site disturbance is planned to occur between April and August CPW recommends the lessee survey suitable nesting habitat using USFWS protocols and any active mountain plover nests should be flagged.

Raptors and Migratory Birds:

There is suitable habitat for nesting raptors and migratory birds on/or directly adjacent to the proposed lease site. Consultation with USFWS is recommended to ensure compliance with the Migratory Bird Treaty Act and the Bald and Golden Eagle Act. To avoid impacts to the nesting efforts of migratory birds CPW recommends any proposed development or exploration of the site focus, seismic work, construction, and vegetation clearing activities outside of the breeding season (March 15th -August 31st). If construction must occur during the breeding season, surveys for active nests should 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 also recommends the use of preconstruction surveys to identify raptor nests within the project area and the implementation of appropriate restrictions. CPW recommends adherence to the recommended buffer distances and timing stipulations identified in the CPW document "Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors" available on the CPW website.

Riparian Areas:

Riparian areas and drainages are important habitats for a variety of wildlife and need to be connected as much as possible so a layout that maintains access for wildlife to those areas in particular is preferred. Even though the proposed project does not directly include a riparian area, it is located close to a riparian area and may have an impact. The drainage to the North of the mine feeds directly into Bustos Canyon, followed by the Huerfano River. The Huerfano is a critical Native Fish stream, and although flows are typically ephemeral or seasonal, the refuge habitat that the pools in the dry riverbed create is paramount for native fish to persist in this system. There

appears to be a large, potentially spring fed, pool just south of the river, in Bustos Canyon. This pool is likely important fish habitat as well as native amphibian habitat, special care should be taken to ensure the spring fed pool is not disturbed, in addition to effects on the Huerfano River.

Noxious weed management:

Also of importance are revegetation of disturbed soils and the control of noxious weed species through the development of a noxious weed management plan during reclamation activities. After review of the documentation for the project CPW realizes the potential presence of several species of invasive weeds at the site. Reclamation efforts should address the existing conditions, treatment of invasive weeds on site, and best management practices to prevent the spread of noxious weeds. The revegetation of disturbed areas and control of invasive weed species are important components of the project and it is highly preferred that the site be restored to a native plant community, and all noxious weeds on site be managed and not left to grow, even in select areas. Oftentimes, weed species that have the greatest potential to out-compete native forage are ignored, such as, cheatgrass, kochia, and Russian thistle, which are often the greatest threat to rangeland. CPW prefers that native vegetation be retained on site during the operational lifespan of the project, both as habitat for wildlife and to ensure the successful reclamation of the project area. Proper reclamation, from a wildlife perspective, involves not only stabilizing the soil and establishing ground cover, but also fostering plant communities with a diversity of species and plant types. Grasses, woody plants, and broadleaf forbs fully serve the nutritional needs of wildlife. Strict adherence to the Natural Resources Conservation Service's recommendations is advised.

Impact Avoidance, Minimization, and Mitigation Recommendations:

Along with wildlife resources, CPW recommends the following considerations for avoidance, minimization and mitigation to the proposed project site.

- If nesting burrowing owls are present, no human encroachment or surface disturbance should occur within a 660-foot buffer of nesting burrows from March 15 to August 31. If burrowing owls occupy the site, CPW recommends that earthmoving and other disturbance activities be delayed until after they have migrated away from the site. If seismic work could disturb or collapse dens containing nests, that work should avoid the nesting period for any nests.
- CPW recommends that if the property boundary of the mine is going to be fenced, that wildlife friendly fencing is used. The CPW document "Fencing with Wildlife in Mind" is available on CPW's website.

- CPW recommends no surface disturbance (other than existing agricultural activities) within 300 feet of active Mountain Plover nest sites until young are hatched, independent, and fledged (April 1 - August 15).
- CPW reviewed the proposed plan for erosion control into the Huerfano River canyon, and CPW recommends the same consideration for erosion control be applied for the Bustos canyon upstream to include the pond and surrounding wetlands.
- CPW recommends that all areas of disturbance be re-vegetated with a native seed mix and all areas of the site undergo noxious weed management. CPW highly recommends the eradication of weeds as they germinate via chemical treatment instead of allowing them to grow in select areas as indicated in the proposal. A long-term noxious weed control and monitoring plan should be implemented over the 2-3 year duration of the project. The Colorado Weed Management Association provides the booklet "Noxious Weeds of Colorado" that provides information on identification and management of noxious weeds in Colorado. CPW prefers that native vegetation be planted on treated and disturbed areas to prevent noxious weeds from taking over the disturbed areas.

Colorado Parks and Wildlife appreciates your consideration of our comments and collaboration on this project to minimize the impact on wildlife. Please feel free to contact, Land Use Coordinator, Cassidy English, should you have any questions or require additional information at 719-828-4877, or via email at cassidy.english@state.co.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael D Brown", followed by the handwritten number "#122".

Michael D Brown
Area Wildlife Manager
Area 11-Pueblo

CC: Cassidy English, SE Region Land Use Coordinator
Derek Brown, District Wildlife Manager