



April 28, 2025

TO: Tony Tennyson, Colowyo Coal Mine (Colowyo)

CC: Zach Trujillo, Division of Reclamation, Mining and Safety (Division)

Re: Colowyo Coal Mine, C-1981-019, Burrowing Owl Sighting Meeting Discussion.

Dear Mr. Tennyson,

Thank you for meeting with the Division on Thursday April 24, 2025 to discuss Colowyo's April 9, 2025 sighting of a pair of Burrowing Owl (*Athene cunicularia*) on site at Colowyo Coal Mine. Burrowing Owls are listed as a threatened species in Colorado and are thus protected from take activities by law and offered protection under the federal Migratory Bird Treaty Act. Therefore, in accordance with Rule 4.18 - Protection of Fish, Wildlife, and Related Environmental Values of the Regulations of the Colorado Mined Land Reclamation Board for Coal Mining (Regs), Colowyo notified DRMS promptly after the sightings. Following this notification, pursuant to Rule 4.18 (3(b)), the Division reached out to the relevant State and Federal agencies which, in this case, was determined to be Colorado Parks and Wildlife (CPW).

A meeting was held on April 24, 2025 with Hunter Ridley and Zach Trujillo- of the Division, Tony Tennyson- of Colowyo Coal Mine, and Brian Holmes- with CPW. During the meeting attendees discussed the CPW recommendations currently in place for buffer zones around threatened and endangered raptor species. These recommendations and guidelines can be found below, included in Mr. Holmes' follow-up letter regarding the April 24th meeting. It was determined that Colowyo is already following the CPW recommended buffer zone for "large industrial disturbances", which is no surface disturbing activities, permitted mining activities, or human encroachment within ¼ mile (1,320 feet) of active burrowing owl nest sites. Colowyo stated that they will continue to maintain this buffer through the stated nesting season from March 15 through August 31.

The Division has determined that Colowyo Coal Mine is currently in full compliance with all relevant Rules and Regulations regarding the Burrowing Owl sighting.

Sincerely,
Hunter C. Ridley

Environmental Protection Specialist





COLORADO

Parks and Wildlife

Department of Natural Resources

Meeker Service Center
PO Box 1181
Meeker, CO 81641
P 970.878.6090 | F 970.878.6077

April 24, 2025

Attn: Hunter Ridley
Colorado Division of Reclamation, Mining, and Safety
hunter.ridley@state.co.us

Ms. Ridley,

Following our consultation call today I would like to codify the following recommendations that the parties agreed upon regarding the presence of burrowing owls within the Colowyo-Little Collom mining operation area. Burrowing owls are currently listed as a State Threatened species in Colorado, and are therefore protected from take activities by law. They are also offered protection under the federal Migratory Bird Treaty Act. Colorado Parks and Wildlife (CPW) has recommended buffer zones and seasonal restrictions for raptors, including burrowing owls, based upon the best available science. I have included these recommendations as an attachment for your reference. For “large industrial disturbances” CPW recommends that no surface disturbing activities, permitted mining activities, or human encroachment occur within ¼ mile (1,320 feet) of active burrowing owl nest sites during the nesting season which runs from March 15 through August 31.

On our call today Tri-State G&T staff at Colowyo Coal Mine indicated they had already been adhering to these CPW raptor recommendations following observation of a presumed active burrowing owl nest in the vicinity of the Little Collom Pit and that they intended to limit mining activities and human encroachment within the suggested 1,320 foot buffer zone for the duration of the nesting season. CPW staff concur with Tri-State and Colowyo’s approach to protecting this burrowing owl nest site and appreciate this compliance and consultation from Tri-State and DRMS. If there is need for any further consultation please feel free to call me at 970-878-6063 or email at Brian.Holmes@state.co.us.



Sincerely,

Brian E. Holmes

Brian E. Holmes
Terrestrial Wildlife Biologist
Colorado Parks and Wildlife

Cc:

Tony Tennyson, Tri-State G&T
Zach Trujillo, Colorado DRMS





COLORADO

Parks and Wildlife

Department of Natural Resources

RECOMMENDED BUFFER ZONES AND SEASONAL RESTRICTIONS FOR COLORADO RAPTORS (2020)

OVERVIEW

Colorado Parks and Wildlife (CPW) is routinely asked for recommendations on ways to avoid and minimize disturbance to nesting, wintering, and resident raptors in Colorado. These guidelines were originally developed by Colorado Division of Wildlife in 2002 and updated in 2008. We recently (2020) undertook a periodic review of our guidelines to ensure that they are the most up to date based on the best available science and professional judgement. Further revisions of this document may become necessary as additional information is published or becomes available.

Background on Disturbance

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 of a nest site. 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 overheating of eggs or chicks and starvation of nestlings can result from human activities that appeared not to have caused an immediate response.

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 American 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 can 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. Recognizing that there is individual variability, 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. Also, in order to allow for individual variability and re-nesting pairs, CPW recommends seasonal restrictions continue to be implemented until the chicks have fledged. Other factors such as intervening terrain, vegetation screens, and the existing cumulative impacts of activities should also be considered.

A 'holistic' approach is recommended when protecting raptor habitats. While it is important for land managers to focus on protecting nest sites, attention should also 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 continued nest occupancy. Unfortunately, basic knowledge of habitat use for individual nesting pairs is often lacking.

RECOMMENDED BUFFER ZONES AND SEASONAL RESTRICTIONS

CPW recommends consultation with local CPW staff early in the planning phase of project proposals in order to assess and develop site-specific recommendations based on pre-existing conditions (e.g. existing development, topography, vegetation, and line-of-sight to nest). CPW maintains a leadership role with respect to raptor management in Colorado; however it is important to keep in mind that the primary authority for the regulation of take and the ultimate jurisdiction for most of these species rests with the U. S. Fish and Wildlife Service (USFWS) under the Migratory Bird Treaty Act (16 U.S.C. 703-712) and the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c). Therefore, CPW also recommends early consultation with the U.S. Fish and Wildlife Service to comply with the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and the 2016 U.S. Fish and Wildlife Service Eagle Permits Rules as applicable (USFWS 2016).

BALD EAGLE

Nest Site: No Surface Occupancy (NSO) beyond that which historically occurred, within ¼ mile (1320 feet, 400 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of active nest sites from December 1 through July 31. The majority of bald eagle chicks in Colorado have fledged by July 31; however, for late-nesting or potential re-nesting bald eagles, CPW recommends seasonal restrictions beyond July 31 if chicks are still present in the nest. CPW's recommended buffer 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.

If surface occupancy cannot be avoided within ¼ mile of the nest AND the nest is located within a Highly Developed Area, then the recommended NSO extends ⅓ mile (660 feet, 200 meters) from the nest site. No permitted, authorized, or human encroachment activities within ¼ mile radius of active nests from December 1 through July 31. This buffer recommendation matches the USFWS 2007 Guidelines in the instances where eagles have demonstrated the ability to tolerate previous levels of human encroachment and surface occupancy.

Winter Night Roost and/or Communal Roost: No permitted, authorized, or human encroachment activities within ¼ mile (1320 feet, 400 meters) radius of an active night and/or communal roost from November 15 through March 15 if there is no direct line of sight between the roost and the activity. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of an active night or communal roost from November 15 through March 15 if there is a direct line of sight between the roost and the activity.

If an active winter night roost is located within a Highly Developed Area, then no permitted, authorized, or human encroachment activities within ⅓ mile (660 feet, 200 meters) radius from November 15 through March 15 if there is no direct line of sight between the roost and the activity. No permitted, authorized, or human encroachment activities within ¼ mile (1320 feet, 400 meters) radius from November 15 through March 15 if there is a direct line of sight between the roost and the activity. Note: Communal roosts are relatively rare in Colorado and have disproportionately high biological value. Therefore a reduced buffer within a Highly Developed Area does not apply to communal roosts.

If periodic visits (such as oil well maintenance work) to preexisting facilities are required within the buffer zones described above, activity should be restricted to the period between 1000 and 1400 hours from November 15 to March 15.

GOLDEN EAGLE

Nest Site: No surface occupancy (beyond that which historically occurred in the area) within ¼ mile (1320 feet, 400 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of active nests from December 15 through July 15.

FERRUGINOUS HAWK

Nest Site: No surface occupancy (beyond that which historically occurred in the area) within ½ mile (2640 feet, 800 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) 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 ½ mile radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile radius of active nests from February 15 through July 15. Some individuals of this species have adapted to urbanization and may exhibit a high tolerance to human habitation and activities within 100 yards of their nest. Development that encroaches on rural nest sites is more likely to cause abandonment.

SWAINSON'S HAWK

Nest Site: No surface occupancy (beyond that which historically occurred in the area) within ¼ mile (1320 feet, 400 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ¼ mile (1320 feet, 400 meters) radius of active nests from April 1 through July 31. 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 (2640 feet, 800 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) mile of the nest cliff(s) from March 15 to July 31. Due to propensity to relocate nest sites, sometimes up to ½ mile (2640 feet, 800 meters) along cliff faces, it is more appropriate to designate 'Nesting Areas' that encompass the cliff system and a ½ mile (2640 feet, 800 meters) buffer around the cliff complex.

PRAIRIE FALCON

Nest Site: No surface occupancy (beyond that which historically occurred in the area) within ½ mile (2640 feet, 800 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of active nests from March 15 through July 15.

NORTHERN GOSHAWK

Nest Site: No surface occupancy (beyond that which historically occurred in the area) within ½ mile (2640 feet, 800 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of active nests from March 1 through September 15.

OSPREY

Nest Site: No surface occupancy (beyond that which historically occurred in the area) within ¼ mile (1320 feet, 400 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ¼ mile

(1320 feet, 400 meters) radius of active nests from March 15 through August 15. Some osprey populations have habituated and are tolerant to human activity in the immediate vicinity of their nests.

MEXICAN SPOTTED OWL

No surface occupancy (beyond that which historically occurred in the area) within USFWS designated Critical Habitat and within Protected Activity Center (PAC). No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800m) buffer of Protected Activity Center from March 1 through August 31.

BURROWING OWL

Nest Site: No permitted, authorized, or human encroachment activities within ¼ mile (660 feet, 200 meters) of the nest site during the nesting season March 15 through August 31. For large industrial disturbances (drilling rig, residential construction, etc.), no permitted, authorized, or human encroachment activities within ¼ mile (1320 feet, 400 meters) of the nest site during the nesting season March 15 through August 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 CPW.

DEFINITIONS

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

Winter night roost and/or communal roost – Areas where bald eagles and sometimes golden eagles perch overnight or gather to perch or forage. Individuals, pairs, and groups of eagles demonstrate site fidelity to winter night roosts and communal roosts throughout the winter season and year after year. Communal roost sites have more than 15 eagles for the majority of the roosting season and are usually in large trees (live or dead) that are relatively sheltered from wind and are generally in close proximity to foraging areas. Winter night roost and communal roosts may also serve a social purpose for pair bond formation and communication among eagles.

Permitted, authorized, or human encroachment activities- Any activity that brings humans in the area. Examples include construction activities, oil and gas development and production, driving, facilities maintenance, boating, trail access (e.g., hiking, biking), 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, solar developments, roads, tracks, trails, etc.

Highly Developed Area – An area where existing density from the cumulative development of oil and gas facilities, home sites, subdivisions, commercial buildings, malls, apartment complexes, gravel pit operations, etc. exceed 10 or more daily occupied facilities within a ¼ mile (1320 feet, 400 meters) radius of the nest. Determination of whether or not a nest site is within a highly developed area will be done in consultation with CPW.

Mexican Spotted Owl Critical Habitat – Critical habitat is defined as areas of land and water with physical and biological features that are essential to the conservation of a threatened or endangered species, and that may require special management considerations or protection. Defined by U.S. FWS Final Rule 2004.

Mexican Spotted Owl Protected Activity Center (PAC) – An area established around an owl nest (or sometimes roost) site, for the purpose of protecting that area. Management of these areas is largely restricted to managing for forest-health objectives.

CONTACT

For further information contact:

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COLORADO

Parks and Wildlife

Department of Natural Resources

Recommended Buffer Zones and Seasonal Restrictions Around Raptor Use Sites

Species and Use	Buffer	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Bald Eagle													
ACTIVE NEST - No Surface Occupancy	¼ Mile	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
ACTIVE NEST - No Human Encroachment	½ Mile	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	White	White	White	White	Shaded
ACTIVE NEST HIGHLY DEVELOPED AREA - No Surface Occupancy	⅛ Mile	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
ACTIVE NEST HIGHLY DEVELOPED AREA - No Human Encroachment	¼ Mile	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	White	White	White	White	Shaded
ACTIVE WINTER NIGHT ROOST without a direct line of sight- No Human Encroachment	¼ Mile	Shaded	Shaded	Shaded	White	White	White	White	White	White	White	Shaded	Shaded
ACTIVE WINTER NIGHT ROOST with a direct line of sight - No Human Encroachment	½ Mile	Shaded	Shaded	Shaded	White	White	White	White	White	White	White	Shaded	Shaded

Species and Use	Buffer	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Golden Eagle													
ACTIVE NEST - No Surface Occupancy	¼ Mile	█	█	█	█	█	█	█	█	█	█	█	█
ACTIVE NEST - No Human Encroachment	½ Mile	█	█	█	█	█	█	█					█
Osprey													
ACTIVE NEST - No Surface Occupancy	¼ Mile	█	█	█	█	█	█	█	█	█	█	█	█
ACTIVE NEST - No Human Encroachment	¼ Mile			█	█	█	█	█	█				
Ferruginous Hawk													
ACTIVE NEST - No Surface Occupancy	½ Mile	█	█	█	█	█	█	█	█	█	█	█	█
ACTIVE NEST - No Human Encroachment	½ Mile		█	█	█	█	█	█					
Red-tailed Hawk													
ACTIVE NEST - No Surface Occupancy	⅓ Mile	█	█	█	█	█	█	█	█	█	█	█	█
ACTIVE NEST - No Human Encroachment	⅓ Mile		█	█	█	█	█	█					
Swainson's Hawk													
ACTIVE NEST - No Surface Occupancy	¼ Mile	█	█	█	█	█	█	█	█	█	█	█	█
ACTIVE NEST - No Human Encroachment	¼ Mile				█	█	█	█					

Species and Use	Buffer	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Mexican Spotted Owl Critical Habitat and Protected Activity Center (PAC) - No Surface Occupancy													
Critical Habitat and Protected Activity Center (PAC) - No Human Encroachment	½ Mile												
		= time period for which seasonal restrictions are in place.											