

Kubeczko, Dave

From: Kubeczko, Dave
Sent: Thursday, December 02, 2010 4:20 PM
To: Kubeczko, Dave
Subject: Black Resources, Inc., State 12H-33-38-16, SESE Sec 33 T38N R16W, Montezuma County, Form 2A (#2584978) CDOW Proposed BMPs
Attachments: BUOWSurveyProtocol2007.pdf

Scan No 2033522 CDOW CORRESPONDENCE, PROPOSED WILDLIFE BMPs 2A#2584978

-----Original Message-----

From: blackmustang@charter.net [mailto:blackmustang@charter.net]
Sent: Tuesday, November 16, 2010 2:40 PM
To: Kubeczko, Dave
Subject: FW: Black Resources State 16H and 12H locations

Hi Dave,

Pursuant to receipt of this email from Brian Magee who states that the Form 2A can be amended by adding the following provisions through request to you, please add to the form if it will be mandatory anyway.

Thanks,

Bill Black
Black Resources, Inc.
817-573-8444

----- Begin forwarded message -----
Subject: Black Resources State 16H and 12H locations
Date: 11/16/10 12:57:28 PM
From: "Magee, Brian" <Brian.Magee@state.co.us>
To: blackmustang@charter.net
Cc: "Holst, Jon" <Jon.Holst@state.co.us>

Hi Bill-

I have reviewed the COGCC Form2A for the State 16H and 12H pad locations. These locations are located within Mule Deer Critical Winter Range Sensitive Wildlife Habitat (SWH). Please refer COGCC Rules 1203 and 1204 for general operating requirements in SWH.

We appreciate that the wells have been staked in largely the areas that we discussed with you last Spring, and we appreciate your efforts to include some wildlife BMPs with your Form2A application to the COGCC.

There are a few additional bmps that the CDOW would like Black Resources to implement at these locations.

There is a Gunnison prairie dog colony located on and adjacent to (west) the 16H pad. The Gunnison's Prairie dog has been petitioned to be listed under the Endangered Species Act. The USFWS recently (2008) found portions of Gunnison's prairie dog populations "warranted, but precluded" from ESA listing at this time. As such, the CDOW would like Black Resources to adopt and "no control" policy for prairie dogs. Meaning that Black Resources will not take measures (poisoning, shooting, ect) to eradicate prairie dogs from the area.

Burrowing owls are commonly found in prairie dog towns throughout Colorado. Burrowing owls require prairie dog or other suitable burrows (e.g. badger) for nesting and roosting. Federal and state laws prohibit the harming or killing of burrowing owls and the destruction of active nests. It is quite possible to inadvertently kill burrowing owls during prairie dog poisoning projects, removal of prairie dogs, destruction of burrows and prairie dogs using a concussive device, or during earthmoving construction activities. Subsequently, if earthwork, construction, and/or drilling activities are scheduled between Nov 1st and March 14th, the CDOW believes that a burrowing owl survey should be conducted prior to any work at the 16H pad site or access road. Attached is the CDOW recommended protocol for conducting burrowing owl surveys. There are a few options for getting these surveys completed, by either hiring a consultant to conduct the surveys according to the attached protocol, or if you like the CDOW can conduct the survey in this case, provided Black Resources notifies the CDOW in sufficient time to conduct the surveys according to the attached protocol.

The large cottonwood located north of the 16H pad and southeast of the 12H has a dilapidated raptor nest in it. It is unknown at this time if/which species of raptor may try and rebuild/occupy the nest. Most species of raptors are protected by the Federal Migratory Bird Treaty Act (MBTA). I believe that Jon Holst provided you with CDOW's recommended spatial and temporal buffers for raptors in Colorado via e-mail after the onsite last spring, but let me know if you need another copy. Both of the wells are within approximately 900ft of this historic nest location. 900ft is well inside most of the spatial buffers recommended for raptors. Given the unknown status of the nest, the CDOW would suggest monitoring the nest, and if it is occupied prior to the commencement of construction activities then we recommend contacting the USFWS for advice on avoiding mortality or nest abandonment. Please note that CDOW's recommended survey protocols and buffers do not constitute a release of liability from the MBTA with the USFWS.

Pursuant to COGCC Rule 902.d., CDOW would like the wildlife exclusionary fencing and netting on the reserve pit. The CDOW concern would be access to free liquids in pits by wildlife (big game, birds, bats, ect). If the liquids are promptly removed after drilling and completion activities, then the concern is largely eliminated. If not, then fencing and netting should exclude access by wildlife to the liquids in the reserve pit once drilling is completed. It is my understanding that the COGCC is currently working on design standards and time frames for installing fencing and netting on pits. The CDOW is less concerned with freshwater ponds, provided that the water is of sufficient quality not to pose as health risk to wildlife (big game, birds, bats, ect), and that proper egress is from the pond will keep animals from being trapped in the pond.

CDOW would like Black Resources to use the wildlife friendly seed mix at both of the locations.

Ecotype: Pinyon/Juniper Woodlands-Sagebrush

If the above bmp are acceptable to Black Resources, the easiest way to include these additional bmp into the Form2A is to simply e-mail Dave Kubeczko at COGCC and he can amend

the Form 2A. If you have questions, or would like to discuss in more detail please give me a call or send me an e-mail.

Thanks again for incorporating our suggestions in the sitting of your facilities.

Brian

Brian Magee

SW Regional Land Use Specialist

Colorado Division of Wildlife

415 Turner Drive

Durango, CO 81303

Office 970-375-6707

Cell 970-759-9587