



Kyle Todd <kyle.todd@wyo.gov>

Fwd: Keyhole mine project 06E13000-2020-CPA-0016a

2 messages

Mark Rogaczewski <mark.rogaczewski@wyo.gov>

Thu, Sep 8, 2022 at 1:25 PM

To: Matthew Kunze <matthew.kunze@wyo.gov>, Kyle Wendtland <kyle.wendtland@wyo.gov>, Kyle Todd <kyle.todd@wyo.gov>

FYI for the Cheyenne records/files for TFN 7 1/018.

Thanks,
Mark

----- Forwarded message -----

From: **Mark Rogaczewski** <mark.rogaczewski@wyo.gov>

Date: Thu, Sep 8, 2022 at 1:22 PM

Subject: Keyhole mine project 06E13000-2020-CPA-0016a

To: WY ESO (wyoinges@fws.gov) <wyoinges@fws.gov>

To whom it may concern:

I spoke with Mr. Nathan Darnell of the Cheyenne USFWS service office this afternoon on the recommendation of Mr. William Schultz of the WYGF in relation to the Black Hills Bentonite, LLC proposed Keyhole State Project mine permit application. This communication occurred related to a concerned citizen contacting the WDEQ Land Quality Division yesterday (September 7, 2022) about wildlife information/surveys in the Black Hills Bentonite, LLC, proposed Keyhole State Project bentonite mine application related to the Northern Long-eared Bat. Please note this is a proposed mining permit application and no mining disturbance associated with this application has occurred to date. The USFWS reference number is: 06E13000-2020-CPA-0016a.

Please see attached the section of the baseline wildlife surveys addressing "Federally Listed, Sensitive, and Other Species of Concern" written by BKS Environmental Associates, Inc., the wildlife survey map, the WYGF letter dated January 21, 2020 and USFWS letter dated April 7, 2021. The WDEQ LQD must make a final decision on approval/denial of this mining permit application before close of business on Monday - September 12, 2022. Please let the LQD know if the USFWS has any concerns with surveys/information provided to date related to the Northern Long-eared bat and whether any additional actions need to be performed by Black Hills Bentonite, LLC and/or the LQD.

Thanks in advance for your attention to this subject on such short notice.

Sincerely,

Mark Rogaczewski
Supervisor
LQD District III
2100 West 5th Street
Sheridan, WY 82801
307-675-5616
mark.rogaczewski@wyo.gov

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DEQ Exhibit 10

DEQ 10 - 0001

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3 attachments

 **USFWS_Corr_April_7_2021.pdf**
126K

 **BHB_Keyhole_wildlife_surveyinformation.pdf**
647K

 **BHB_Keyhole_WildlifeSurvey_Map.pdf**
16728K

Mark Rogaczewski <mark.rogaczewski@wyo.gov>

Fri, Sep 9, 2022 at 7:15 AM

To: Kyle Wendtland <kyle.wendtland@wyo.gov>, Kyle Todd <kyle.todd@wyo.gov>, Matthew Kunze <matthew.kunze@wyo.gov>, Muthu Kuchanur <muthu.kuchanur@wyo.gov>

Kyle W.,

Please see below the response from the USFWS Cheyenne office related to concerns brought forward related to the Northern Long-eared bat.

Thanks,
Mark

----- Forwarded message -----

From: **WyomingES, FW6** <WyomingES@fws.gov>

Date: Thu, Sep 8, 2022 at 4:56 PM

Subject: Re: [EXTERNAL] Keyhole mine project 06E13000-2020-CPA-0016a

To: Mark Rogaczewski <mark.rogaczewski@wyo.gov>

Cc: Reeves, Julie <Julie_Reeves@fws.gov>, Crisostomo, Lea U <lea_crisostomo@fws.gov>

Mark,

Thank you for contacting our office about potential effects of the Keyhole bentonite mine (Project) on the northern long-eared bat (*Myotis septentrionalis*), which is listed under the Endangered Species Act as a threatened species (80 FR 17974; April 2, 2015). In our correspondence of April 7, 2021, we concluded the Project was unlikely to adversely affect listed species, including the northern long-eared bat.

On March 23, 2022, the U.S. Fish and Wildlife Service (Service) published a proposed rule to reclassify the species as endangered due to the species-level impacts of white-nose syndrome (WNS), coupled with other stressors and sources of mortality (87 FR 16442). Due to a court order, the Service must make a final determination by November 2022, whether to reclassify the species as endangered. Until then, the northern long-eared bat will remain a threatened species. Regardless of the classification (threatened or endangered), our conclusion in 2021 was likely predicated, in part, on no removal of trees. If no tree removal will occur, we reaffirm our earlier determination.

However, the wildlife survey report states,

"the proposed Permit Area alone hosts very few woodlands, moist drainages, reservoirs or impoundments, or exposed vertical rock structure of any kind that would provide suitable habitat for this species. Vegetation communities in the proposed Permit Area are dominated by upland shrubland habitats, and no known underground cavities or caves exist in the area. Two stands of mixed ponderosa pine and juniper occur within the proposed Permit Area in SENE and SWNE Section 16 and NENW and SENW Section 16." [emphasis added]

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"No bat species were incidentally documented during any of the baseline surveys, but no specific bat surveys (acoustical or visual) were attempted for the Keyhole Mine project."

and "While it is possible that the northern long-eared bat (an ESA threatened species) could occur in the survey area, any bats that might be present are most likely associated with the ponderosa pine woodlands to the east or west, the Keyhole Reservoir to the north, or the Mule Creek and Iron Run to the east. Little woodland or mesic habitat occurs within the Permit Area itself and will be physically impacted by the proposed Keyhole Mine project." [emphasis added]

The wildlife report does not conclude that no woodland habitat will be impacted by mining activities, but rather that little (i.e., some) will be. The writers of the report may have been reluctant to make definitive statements (e.g., no woodlands) for a variety of reasons, or maybe some trees occur within the Permit Area. But the distinction between "no" and "little" is important; therefore, I recommend you either (1) clarify proposed mining activities in the Permit Area will not remove any trees, or (2) commit that any tree removal, even one tree, will occur during the period when the northern long-eared bat is hibernating.

I am cc'ing Julie Reeves, who reviews most projects involving the northern long-eared bat, and Lea Crisostomo, who reviews most bentonite mine projects, in case I have missed or misstated something.

Thank you,

Nathan Darnall, for
Wyoming Field Office
U.S. Fish and Wildlife Service
334 Parsley Boulevard
Cheyenne, Wyoming 82007
WyomingES@fws.gov

For a species list, visit <https://ecos.fws.gov/ipac/>
Office information <https://www.fws.gov/wyominges/>

From: Mark Rogaczewski <mark.rogaczewski@wyo.gov>
Sent: Thursday, September 8, 2022 1:22 PM
To: WyomingES, FW6 <WyomingES@fws.gov>
Subject: [EXTERNAL] Keyhole mine project 06E13000-2020-CPA-0016a

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permit application and no mining disturbance associated with this application has occurred to date. The USFWS reference number is: 06E13000-2020-CPA-0016a.

Please see attached the section of the baseline wildlife surveys addressing "Federally Listed, Sensitive, and Other Species of Concern" written by BKS Environmental Associates, Inc., the wildlife survey map, the WYGF letter dated January 21, 2020 and USFWS letter dated April 7, 2021. The WDEQ LQD must make a final decision on approval/denial of this mining permit application before close of business on Monday - September 12, 2022. Please let the LQD know if the USFWS has any concerns with surveys/information provided to date related to the Northern Long-eared bat and whether any additional actions need to be performed by Black Hills Bentonite, LLC and/or the LQD.

Thanks in advance for your attention to this subject on such short notice.

Sincerely,

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