



COLORADO

Parks and Wildlife

Department of Natural Resources

Southeast Region
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March 28, 2022

Matthew Cummings
Quandary Consultants
55 East 4th Avenue
Denver, CO, 80203

RE: Waiver of CPW consultation under 309.e.3.C.i for Navex Resources location Travis 1-10

Dear Mr. Cummings,

In response to Navex Resources proposed well location Travis 1-10, CPW is providing written waiver of consultation under rule 309.e.3.C.i. *'The Operator demonstrates and CPW agrees in writing that... The identified habitat and species triggering the consultation is no longer present and unlikely to return to the area;'*

This location maps to within the 0.5 mile buffer of a ferruginous hawk nest. CPW's surveys concur with the information and survey data provided by the operator that the nest was destroyed during a storm in December of 2021. Subsequent surveys conclude that the pair has not rebuilt the nest in 2022, thus the nest location in the CPW database has been updated from 'active' to 'destroyed.' Given the updated nest status, CPW waives consultation for the Travis 1-10 well location.

Background and supporting information:

Navex Resources is proposing a location for well Travis 1-10 in Kit Carson County. Matt Cummings with Quandary Consulting first reached out to CPW on December 8th with information on the location, previous work on the site, and Navex drilling and development plans. The proposed location is within the NSO buffer for a ferruginous hawk nest. The initial review by CPW identified records showing that this nest had been confirmed to be occupied in both 2020 and 2021 during CPW-led nest surveys, with a pair of ferruginous hawks present and raising offspring. There is no CPW waiver allowed under the 1200 rules for 1202.c. 1.H. habitats.

On Dec 21st, Mr. Cummings contacted CPW again with information and photos showing damage to the tree and nest from 'high wind storm (straight line winds in Burlington, CO were reported by CBS News as 100-115 mph), the tree and nest appear to have suffered



damage. The attached picture taken Saturday, 12/18/2021 shows the former nest along with some branches of the dead tree were blown down during the storm. All of the nest material appears to have been completely blown from the tree as you can see in the picture. It would seem that as a result of the storm, this nest would be considered no longer present. '

CPW District Wildlife Manager (DWM) for Kit Carson County visited the location and determined that the existing nest was no longer present. However, he observed that the damage to the tree was not sufficient to preclude nesting and that the hawks could re-build their nest in that location. CPW notified Quandry that until the 2022 nesting season was underway we could not conclude the habitat was 'unlikely to return to the area'. CPW records showed the birds nesting in that location have been present on the nest in March of each year surveyed and until that time we could not conclude they had abandoned the location. We notified Mr. Cummings that we would be able to make our determination on the nest status at the end of March 2022.

Quandry Consultants surveyed the site weekly and provided survey results to CPW showing there was no new nest construction in the tree and the pair was not present. On one occasion a single ferruginous hawk was present in the tree but the pair was not seen on any of their visits. CPW DWM Ben Meier surveyed the nest location for a final time on March 16th, photographed the tree, and concluded there was no new nest or nesting behavior at the location. The final observation by Quandry took place on March 25th with the same observation. CPW has concluded the birds have abandoned the nest location and that nest location has been updated to 'destroyed' in the CPW raptor nest database.

In summary of the information on the proposed location for the Navex Travis 1-10 well location:

- The location is in mapped 1202.c.1.H habitat with a No Surface Occupancy determination.
- The Ferruginous hawk nest at the location was confirmed to be occupied in 2020 and 2021 by CPW.
- The nesting season for that species is identified by CPW as Feb 1 to July 15. CPW raptor biologist noted that this particular pair has been observed on the nest in early March in past surveys.
- Quandry Consultants reported that the existing nest structure was destroyed during a severe wind storm in December 2021.
- CPW District Wildlife Manager Ben Meier and a CPW raptor biologist determined that although the nest was destroyed, the tree at that location could still support a nest if the pair decided to build a new nest.
- In regards to Rule 309.e.3.C.i., a consultation is not required when *The Operator demonstrates and CPW agrees in writing that... the identified habitat and species triggering the consultation is no longer present and unlikely to return to the area;*
- CPW requested time to determine whether the pair would return to nest at that location. In order to determine the 'unlikely to return' component of the rule CPW waited until the normal nesting activity would be observed, early to mid-March for that location.

- At the end of March 2022 CPW concluded there was no nesting activity at the location and updated the nest status from 'active' to 'destroyed'
- CPW agreed to waive our consultation under 309.e.3.C.i. on March 28, 2022

Sincerely,

Karen Voltura

Karen Voltura
CPW Southeast Region Energy Liaison