



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region

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Memorandum

To: Field Supervisor, Ecological Services, Salt Lake City, Utah

From: Assistant Regional Director, Ecological Services, Region 6

Subject: Intra-Service Section 7 Consultation for the Issuance of
Section 10(a) Permit for the Hell Canyon Quarry, Utah

This biological opinion was prepared at the January 24 request of the Utah Field Office of the U.S. Fish and Wildlife Service (Service) as required by the Endangered Species Act of 1973 (Act) for the proposed issuance of a Section 10(a) incidental take permit for the Hell Canyon Quarry, Salt Lake City, Salt Lake County, Utah. The Service reviewed a proposal from Flandro Venture Capital Group, owner of the quarry, to eliminate an active peregrine falcon (*Falco peregrinus*) eyrie by removing the nesting cliff. The Federal action is approval of the incidental take permit by the Service. This biological opinion was prepared in accordance with Section 7 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and the Interagency Cooperation Regulations (50 CFR 402).

The peregrine falcon is an endangered species and occurs on the quarry site. This biological opinion addresses impacts of the proposal to this species and was prepared using information contained in the incidental take application prepared by Mr. Allan Flandro. Additional information was provided during the consultation process and obtained from existing Service files.

BIOLOGICAL OPINION

It is our biological opinion that the proposed issuance of an incidental take permit is not likely to jeopardize the continued existence of the peregrine falcon. No critical habitat has been designated for the species. Therefore, no critical habitat will be destroyed or adversely modified by this project.

PROJECT DESCRIPTION

It is proposed that a Section 10(a) incidental take permit be issued to Mr. Allan Flandro for the destruction of an active peregrine falcon eyrie in the Hell Canyon Quarry. The permit would allow for the legal take of habitat for an endangered species.

The property of concern is a quarry on a 30-acre tract at 1020 North Victory Road in Salt Lake City, Utah. This area has been a source of construction aggregates since the turn of the 20th century. Its products are limestone, sand, and gravel. It has been owned by the applicant since 1962. In 1983, an agreement between W.W. & W.B Gardner Company and Mr. Flandro authorized the Gardners to operate and remove material from the quarry on a royalty basis. This remained in effect until 1991, at which time the work ceased because the Gardners became bankrupt due to financial problems in other parts of their business. The contract with the Gardners was then canceled. In early 1992, a new agreement was entered into with the Rolfe Construction Company of Salt Lake City for the same purpose, which is still in force. During 1991, Rolfe Construction bought a remaining stockpile of material from the Gardners which they were able to load with a front-end loader into dump trucks and remove from the premises without disturbing the falcons.

The applicant would like to offer the material from the quarry to the general contractor constructing the new runway at the Salt Lake International Airport. This project is so large that it could deplete the quarry as a source of material. Once this is done the applicant has plans to level the site and sell the land for development.

The walls of the quarry were left in a near vertical position by the Gardners. They had planned to slope them as they continued excavation, but when their contract was canceled they left that work unfinished. The vertical walls are a serious danger to a trespasser, and it is the intention of the applicant to slope them for safety as soon as possible.

The owner of the property also owns 18.3 acres contiguous to the north on which a smaller quarry is located. It is approximately 1,200 feet away from the present eyrie, higher in elevation, and about 1,100 feet from the presently planned excavation. The site selected faces northwest and has a clear drop down the face of about 100 feet. At the toe of the face, the ground slopes downward quite rapidly. Mr. Flandro proposes to attach a nesting box similar to those used downtown near the top of the cliff. The specifications for the box are detailed in Sherrod et al. 1981.

There are several natural openings in rock outcroppings located some 900-1,000 feet east of the proposed eyrie which could be used as alternate nest sites. These are on land owned by Salt Lake City.

Thus, according to the Habitat Conservation Plan Agreement and conditions of the Section 10(a) incidental take permit, the permittee agrees that 3 acres will be set aside and protected as an eyrie site for the peregrine falcons. A nesting box will be attached to a cliff, and the applicant will maintain the nesting box for the life of the permit. Access to the new site will be restricted to authorized personnel only. No trapping, handling, or any other contact with the falcons is planned. All of the above sites are substantially farther away from the traffic on Victory Road.

BASIS OF OPINION

Biological Data

Peregrine falcons nest on cliffs, usually in mountainous areas, or near rivers or lakes. In the Rocky Mountain and southwest region of the United States, peregrine eyries are found on dominant cliffs which generally exceed 200 feet in height. Sites can be found from the lowest elevation in the region to above 9,000 feet. Nest sites are often adjacent to water courses and impoundments because of the abundance of avian prey which are found there (U.S. Fish and Wildlife Service 1984).

Pairs of falcons are usually present on the nesting cliff by mid-March. A clutch of three, or more often four, eggs is laid in early April in the south and in late April in the northern part of the Rocky Mountain southwest region. Incubation lasts approximately 33 days, and the young remain in the area several weeks after fledging in mid-June to mid-July, during which time they are fed and defended by both adults (U.S. Fish and Wildlife Service 1984).

Peregrine falcons may travel up to 17 miles from nesting cliffs to hunting areas (Porter and White 1973). Flight speed in excess of 60 miles an hour allows this falcon to hunt large areas with little effort. Preferred hunting habitat such as cropland, meadow, river bottoms, marshes, and lakes attract abundant bird life. Blackbirds, jays, doves, shorebirds, and smaller songbirds are common food items (U.S. Fish and Wildlife Service 1984). In urban areas, pigeons are frequently taken.

Natural annual mortality is in the range of 20 to 25 percent for adult peregrines and 55 to 60 percent for juveniles. The mean life expectancy for a peregrine falcon is probably near 4 years with a maximum of 20 years. They do not breed until at least 2 years of age. Sudden, drastic changes in the number of breeding adults are not anticipated due to the long average life expectancy of the birds and present population trends (U.S. Fish and Wildlife Service 1984).

Peregrine Falcons in Utah

In 1992, Utah had 105 known sites with pairs of peregrine falcons present. The number of pairs has been increasing dramatically in recent years.

Peregrine falcons first appeared in downtown Salt Lake City in 1984. The male came from the peregrine falcon release program conducted by the Utah Division of Wildlife Resources in the Great Salt Lake area. The pair first nested on the Hotel Utah in 1986. Three nest boxes were placed on the hotel to provide for a safe nesting area. They produced young on the hotel every year until 1990. During that time, 12 young were produced with 10 falcons fledging. A very successful volunteer falcon nest watch program was established by Bob Walters of the Utah Division of Wildlife Resources and proved to be a popular attraction for Salt Lake City residents as well as visitors to the State. Media coverage was quite extensive particularly when the young birds were banded.

The original male peregrine did not return one year and was replaced by another banded male bird also from the hawk towers around the Great Salt Lake. The females have all been unbanded and assumed to have come from wild pairs. In 1990, the Church of Jesus Christ of Latter-Day Saints decided to renovate the hotel and turn it into church office space. They indicated that the pair would be welcome back to the hotel once the construction was completed. The construction activity forced the pair to nest elsewhere within its territory. Additional nest boxes were placed on other tall buildings in the city, but the pair moved to a quarry north of the city. The boxes were all placed on the top floor of the buildings, and this may not have been as attractive to the pair. Of the three boxes on the hotel, the one most used was on the ninth floor which was about one-third of the way down from the top. Even though the pair has nested in the quarry since 1991, it still spends a great deal of time in downtown Salt Lake City perching, feeding, and resting on the tall buildings.

The pair has produced six young at the quarry site with five successfully fledged. The peregrine falcons have produced 18 young since 1986 with 15 fledging. Given that the cost for a peregrine falcon produced by The Peregrine Fund in Idaho is about \$2,000, this pair of birds has produced \$36,000 worth of young falcons since it arrived in Salt Lake City.

Both the current eyrie and the Hotel Utah have several common characteristics. There is no access from the ground level, the sides are vertical, and both limit access to the top of the eyrie. Only a few maintenance people were allowed on the roof of the hotel, and the loose overburden placed over the Hell Canyon eyrie is very dangerous and inhibits people from walking over the eyrie site. Peregrine falcons are easily disturbed by any activity that takes place over the top of their eyrie.

Effects of the Proposed Action

The proposed action would result in the destruction of the currently active peregrine falcon eyrie. The construction of an alternative nest box would provide the pair a site to use within its current territory. There is no guarantee the pair will use the nest box. The factors that make a site attractive to peregrines is not entirely understood. The Wasatch Front is natural habitat for peregrine falcons, and numerous unoccupied historical eyries are in the area. If the pair fails to use the nest box, other viable sites are available.

Cumulative Effects

Cumulative effects are those effects of future non-Federal (State, local government, or private) activities on endangered and threatened species or critical habitat that are reasonably certain to occur during the course of the Federal activity subject to consultation. Future Federal actions are subject to the consultation requirements established in Section 7 of the Act and, therefore, are not considered cumulative to the proposed action. The operation of the Hell Canyon Quarry will lead to more development in the area, as the future plans are for the quarry to turn the cleared areas into an industrial area.

INCIDENTAL TAKE

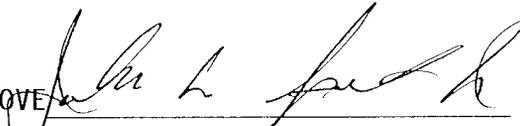
Section 9 of the Act, as amended, prohibits any taking (to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct) of listed species of fish or wildlife without special exemption. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. Under the terms of Sections 7(a)(2) and 7(b)(4) of the Act, taking that is incidental to and not intended as part of the agency action is not considered a prohibited taking provided that such taking is in compliance with this incidental take statement. The measures described below are nondiscretionary and must be undertaken by the agency or made a binding condition of any grant or permit issued to the applicant, as appropriate.

The proposed action under review in this consultation is directed toward the intentional taking of a peregrine falcon eyrie and is a permitted activity under Service authorities. Therefore, pursuant to Section 7(b)(4) of the Act, no incidental take is anticipated.

CONCLUSION

This concludes formal consultation on the proposed Hell Canyon Quarry, Salt Lake City, Salt Lake County, Utah. As required by 50 CFR 402.16, reinitiation of formal consultation is required if: (1) the amount or extent of incidental take is reached (no incidental take is anticipated by this action); (2) new information reveals effects of the agency action that may impact listed species or critical habitat in a manner or to an extent not considered in this biological opinion; (3) the agency action is subsequently modified in a manner that causes an effect to a listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action.



APPROVE 

DISAPPROVE _____

Date 7 Feb 94

Date _____

LITERATURE CITED

- Porter, R.D. and C.M. White. 1973. The peregrine falcon in Utah. Brigham Young University Science Bulletin, Biological Series 18(1):1-74.
- Sherrod, S.K., W.R. Heinrich, W.A. Burnham, J.H. Barclay, and T.J. Cade. 1981. Hacking: a method for releasing peregrine falcons and other birds of prey. The Peregrine Fund. Ft. Collins, Colorado. 61 pages.
- U.S. Fish and Wildlife Service. 1984. American peregrine falcon recovery plan (Rocky Mountain/Southwest Population). Prepared in cooperation with the American Peregrine Falcon Recovery Team. Peregrine Falcon Recovery Team, Denver, Colorado.