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25 June 2026

James Hollen, NEPA Coordinator
New Mexico Abandoned Mine Land Program (AML)
Mining and Minerals Division
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: Red Point Uranium Mine Site Reclamation Project, Biological Assessment and Evaluation, McKinley County, New Mexico. NMDOW Project No. NMERT-6088.

Dear Mr. Hollen,

The New Mexico Department of Wildlife (Department) has reviewed the above referenced Biological Assessment and Evaluation (BA/BE) prepared by Pinyon Environmental, Inc. (Pinyon). The proposed project area is located on State Trust Land in McKinley County and is approximately 13 miles north of Milan in Township 13N, Range 10W, Section 16. The proposed Area of Potential Effects (APE) can be accessed using existing roads through private and tribal land and encompasses approximately 103 acres. Staff from the Department, AML, New Mexico Environment Department, and EA Engineering, Science and Technology, Inc. conducted a site inspection on 17 June 2026.

The BA/BE states that Pinyon observed an American kestrel (*Falco sparverius*) entering a cavity in the sandstone crag just south of the APE and mapped it as an active raptor nest. During the site inspection, an adult female kestrel was observed and begging calls from juvenile kestrels were also heard, confirming Pinyon's assessment that the cavity contains an active nest. Also observed on the same sandstone crag during the site inspection was at least one recently fledged great horned owl (*Bubo virginianus*) and nesting cliff swallows (*Petrochelidon pyrrhonota*). The nesting sites are all located in the southeast-facing portion of the sandstone crag and are visually isolated from the project area. The nest sites for American kestrel and great horned owl are located less than 0.25 miles from the project area. However, because of the visual isolation provided by the nest sites' orientation, the Department does not anticipate any significant impacts to nesting behavior from proposed project activities.

The Department concurs with the Impact Determinations for Special Status Species and the Recommended Mitigation and Minimization Measures in the BA/BE and does not anticipate any significant impacts to species of concern. We provide the following, more specific, recommendations for protecting migratory birds and post-project reseeded of disturbed areas:

- To minimize the likelihood of adverse impacts to migratory birds, nests, eggs, or nestlings, the Department recommends that ground-disturbance and vegetation removal activities be conducted outside of the primary migratory bird breeding season. This season runs from 15 April - 1 September for upland songbirds, willow flycatcher (*Empidonax traillii*), yellow-billed cuckoo (*Coccyzus americanus*), and other riparian songbirds; 1 March - 1 September for most raptors; 1 January - 15 July for golden eagle (*Aquila chysaetos canadensis*) and great horned owl; and 1 March - 15 September for sites in low-elevation deserts. If ground-disturbing and clearing activities must be conducted during the breeding season, the area should be surveyed for active nest sites (with birds or eggs present in the nesting territory) and avoid disturbing active nests until young have fledged. For active nests, establish adequate buffer zones to minimize disturbance to nesting birds. Buffer distances should be at least 100 feet from songbird and raven nests; 0.25 miles from most raptor nests; and 0.5 miles for ferruginous hawk (*Buteo regalis*), golden eagle, peregrine falcon (*Falco peregrinus*), and prairie falcon (*Falco mexicanus*) nests. Active nest sites in trees or shrubs that must be removed should be mitigated by qualified biologists or wildlife rehabilitators. Department biologists are available to consult on nest site mitigation and can facilitate contact with qualified personnel.
- For reclamation of disturbed areas, the Department recommends that only native plant species are used in the reclamation seed mix and that the mix is designed to enhance local pollinator habitat. For pollinating insects, including a diversity of flowering plants with flowering times that span spring through fall (March-October) and rarer plants may be beneficial. The Department also recommends that the seed mix and mulch be certified weed-free to avoid inadvertently introducing non-native species to the reclamation site and that sterile seed sources not be used. Any alternate plant species, used to substitute for primary plant species that are unavailable at the time of reclamation, should also be native. When possible, the Department recommends using seeds that are sourced from the same region and habitat type as the reclamation site and suggests including seeds from a region that represents potential future climatic conditions at the site.

Thank you for the opportunity to review and comment on the BA/BE. If you have any questions, please contact Ron Kellermueller, Mining and Energy Habitat Specialist, at (505) 270-6612 or ronald.kellermueller@dgf.nm.gov.

Sincerely,

Virginia Seamster, Ph.D.
Assistant Chief for Technical Guidance
Ecological and Environmental Planning Section
Wildlife Management Division

cc: USFWS NMES Field Office