



United States Department of the Interior

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IN REPLY REFER TO:

ES/CO: ES/GJ-6-CO-02-F-001
Permit Number: TE-048568-0
Mail Stop 65412

**FINDING OF NO SIGNIFICANT IMPACT
FOR ISSUANCE OF AN INCIDENTAL TAKE PERMIT
FOR THE PREBLE'S MEADOW JUMPING MOUSE
TO PINERY GLEN RESIDENTIAL SUBDIVISION
DOUGLAS COUNTY, COLORADO**

The U.S. Fish and Wildlife Service (Service) is proposing to issue a section 10(a)(1)(B) permit under the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended (Act), to Continental Homes (the Applicant). The permit would authorize the incidental take of the federally threatened Preble's meadow jumping mouse (*Zapus hudsonius preblei*) (Preble's) in association with the construction of the Pinery Glen Subdivision (541 residential single-family lots) and associated roads, trails, and detention ponds on a 160-acre property in Douglas County, Colorado. This property is located in portions of Sections 15 and 22 of Township 7 South, Range 66 West, southwest of the Town of Parker. The duration of the proposed permit is 10 years. The Environmental Assessment (EA) evaluates the potential environmental effects associated with construction of the proposed subdivision. Approximately 64 of the 160 acres will be impacted by development. The additional 96 acres were deeded to Douglas County upon platting of the Pinery Glen Subdivision. Populations of Preble's are known to occur along Cherry Creek, located directly west of the Pinery Glen property. No other federally-listed threatened or endangered species occur on the property.

The Applicant has prepared a habitat conservation plan (HCP) which describes minimization and mitigation measures to be implemented to reduce and offset the effects of the proposed project on Preble's and its habitat. The implementation of the HCP is intended to contribute to the conservation of Preble's. The primary mitigation measure of the HCP is the proposed enhancement and restoration of vegetation on site at a ratio of 3:1 where impact has already occurred and 1.5:1 to offset future impacts. The permit authorizes a limited amount of incidental take associated with disturbances that will occur with the completion of the proposed project. These mitigation activities include restoration of 13.76 acres of previously impacted habitat and 46.9 acres of habitat enhancement. Further, Continental Homes has proposed to enhance an additional 5 acres in the event that all 46.9 acres required do not reach success criteria. Continental Homes has also agreed to enhance an additional 10 acres for Douglas County for use as a mitigation bank. Activities will consist of planting willows and native grasses and removing non-native plant species.

This alternative was selected as the proposed action as it will allow development of the property to be completed and provide a conservation plan to minimize and offset the potential impact to Preble's by providing for on-site conservation measures that will promote viability of the species along Cherry Creek.

Documents used in the preparation of this finding of no significant impact include: the HCP and the EA for the HCP (WWE 2002), any and all written agreements between Continental Homes and the Service (Appendices A, B, and F), the biological opinion on the Pinery Glen permit application (Service 2002a) and the recommendations and findings for the Pinery Glen residential project (Service 2002b). All documents are incorporated by reference, as described in 40 CFR 1508.13.

The proposed permit would authorize the incidental take of an unquantifiable number of Preble's within the 18.79 acres of already impacted upland (Settlement Agreement, Appendix B of the final EA/HCP) and the future loss of 2.86 acres of upland field at the Pinery Glen site. This upland field provides potential foraging and hibernating habitat for Preble's. All construction activities will take place in upland areas during the day. Because Preble's are nocturnal and they most frequently use riparian areas, no direct incidental take is anticipated. The Service is unable to determine the specific number of individuals of Preble's that would be taken because the numbers of individuals present on site may vary from year to year and due to their small size and secretive nature. Although take of individuals cannot be quantified, proper implementation of the HCP, which requires meeting identified performance standards, should ensure that Preble's will be maintained on the site.

The Service has determined that the loss of 21.65 acres of potential habitat associated with issuance of the permit to Continental Homes would not compromise the status of Preble's or its recovery needs for several reasons. The 75.66 acres of mitigation, as described in the HCP, include approximately 65.66 acres of land that has been deeded to Douglas County upon platting. This land will be protected by a county restrictive covenant that will limit the type and amount of development that may occur. (Please see Appendix A of the HCP.) The additional approximately 10 acres of detention pond area restored for Preble's held by the Pinery Glen Subdivision is protected from further development under long-term Douglas County water facility regulations. The detention pond areas will remain as open space and for detention purposes, as required by the county for long-term water management at the subdivision. The Applicant will restrict access to the mitigation area by constructing a split-rail fence and by erecting "No trespassing—wildlife rehabilitation area" signs at regular intervals. Fencing and signage will be installed in locations adjacent to the subdivision where mitigation areas are more easily accessible. Mitigation areas farther from the subdivision may not need fencing, depending on their accessibility. These actions should restrict unauthorized human access while allowing for movement of wildlife. The Applicant has agreed to mitigate for the 21.65 acres of impacts by the following mitigation methods. Mitigation will compensate for 18.79 acres of impact to Preble's habitat that has occurred since the summer of 1999 and 2.86 acres of impact that is proposed to occur. Mitigation will take several forms including preservation, enhancement, and restoration. During and following implementation of the mitigation measures, Preble's habitat on the property will be protected from activities that threaten Preble's including: grazing, water diversion, stream channelizations and sand and gravel mining. The 13.76 acres of restoration and 61.9 acres of

enhancement are fully described in sections 7.4.4.1 and 7.4.4.2 of the HCP. These measures should produce a net benefit to Preble's.

The environmental effects of the proposed project on other aspects of the human environment such as geology and soils, hydrology, air quality, light, noise, traffic, aesthetics, land use and cultural resources were analyzed in the EA. A summary of these issues and impacts is included in the EA. The Service finds that the proposed issuance of an Endangered Species Action section 10(a)(1)(B) permit for take of Preble's in association with the Pinery Glen residential development project will not have a significant effect on the human environment for the following reasons:

1. The loss of 21.65 acres of potential habitat resulting from construction of the proposed project will not jeopardize the survival or recovery of Preble's.
2. The proposed mitigation measures are consistent with recovery of Preble's and are adequate to compensate for the loss of habitat and loss of individual Preble's.
3. The impact upon populations of native species, including sensitive species, will be minimal due to the small area subject to disturbance.
4. Minimal or no impacts will result to other listed species, other wildlife, wetlands, geology and soils, land use, cultural resources, air quality, and water resources and water quality as the result of the Projects onsite, offsite, or cumulatively.

The Service analyzed the effects of the issuance of a section 10(a)(1)(B) incidental take permit (the proposed action), and three alternatives in the EA: (1) alternate site location; (2) alternate site design; and (3) no action. The proposed project alternative involves issuance of a section 10(a)(1)(B) incidental take permit. The alternate site location alternative involves finding another site to develop the project that would result in no or lesser take of Preble's. The alternative site design involves greater impact to Preble's habitat through the initial site design and would also result in issuance of an incidental take permit. The no-action alternative would mean that no further development occurs and no application for an incidental take permit would be processed. The project would be abandoned, and completion of the proposed residential community and conservation efforts to mitigate for impact to Preble's habitat would not take place.

The Service did not select the alternatives to the proposed action for the following reasons: The alternate site location alternative was rejected for its lack of environmental benefits and its probability of placing undue economic burden on the landowner. The loss of the subdivision completed to date along with restoration of Preble's habitat areas would be extremely costly. Abandoning the project would result in a majority of the already completed subdivision remaining unusable, and the proposed mitigation, as described under the proposed alternative, would not be completed. The alternate design alternative was rejected because it could result in avoidable impacts to riparian habitat and additional Preble's habitat. Additionally, the alternate design alternative would impact wetlands and other riparian-dependent species because alternate site design involved the taking of more Preble's habitat along the riparian edge to increase the buildable area of the proposed subdivision. The no-action

alternative was rejected because it would offer only limited environmental benefits of no further development of Preble's habitat on the site without remediating already impacted areas (as with the alternate site alternative) or enhancing Preble's habitat along Cherry Creek (as with the proposed action).

Because it successfully balances environmental impacts with benefits to the community, the Service chose the proposed action as the preferred alternative. Although 21.65 acres of Preble's habitat will be disturbed, 46.9 acres will be enhanced and 13.76 acres will be restored. The 65.66 acres of mitigation includes the 60.66 acres of required mitigation plus an additional 5 acres in the event that all acres required do not reach success criteria. An additional 10 acres will be mitigated for a Douglas County Preble's habitat bank for the county's mitigation use in the future. (See HCP Appendix A.) These 10 acres bring the total mitigation to be restored and enhanced to 75.66 acres. Through the conservation measures described in section 7 of the HCP, currently degraded habitat will be improved. The project will also provide much-needed affordable housing and permit the landowner's economically viable use of the land.

The Service published a notice of availability of an EA/HCP for issuance of an incidental take permit for the proposed action in the *Federal Register* on October 17, 2001. Publication of a notice initiated a 60-day comment period. Copies of the EA/HCP also were provided to interested parties. The Service received one comment on the proposed action during the public comment period. The responses to that comment are included in the EA/HCP in Appendix G.

Based my review and evaluation of the enclosed Environmental Assessment and Habitat Conservation Plan and other supporting documentation, I have determined that issuance of Endangered Species Act section 10(a)(1)(B) permit TE-048568-0 to the Applicant for take of the federally threatened Preble's meadow jumping mouse associated with the proposed Pinery Glen residential subdivision in Douglas County, State of Colorado, is not a major Federal Action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, preparation of an environmental impact statement on the proposed action is not required. Therefore, an environmental impact statement will not be prepared.

ACTING 
U.S. Fish and Wildlife Service
Regional Director

5/25/02
Date

RELATED DOCUMENTS

U.S. Fish and Wildlife Service, 2002a. Intra-Service Section 7 Consultation and Biological Opinion on Issuance of an Incidental Take Permit to Continental Homes, Douglas County, Colorado, Colorado Field Office, Lakewood, Colorado.

U.S. Fish and Wildlife Service, 2002b. Findings and Recommendations on Issuance of an Incidental Take Permit for the Preble's Meadow Jumping Mouse to Continental Homes for construction of a residential subdivision on the 60-acre site in Douglas County, Colorado.

Wright Water Engineers, Inc., 2002. *Environmental Assessment/Habitat Conservation Plan for the Issuance of an Incidental Take Permit Under Section 10(a)(1)(B) of the Endangered Species Act for Construction of a Residential Subdivision for Continental Homes*, 50 pp. plus exhibits and appendices.