



United States Department of the Interior

FISH AND WILDLIFE SERVICE
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IN REPLY REFER TO:
ES/CO: ES/GJ-6-CO-02-F-015
Permit Number: TE-053241
Mail Stop 65412

AUG 26 2002

**FINDING OF NO SIGNIFICANT IMPACT
FOR ISSUANCE OF AN INCIDENTAL TAKE PERMIT
FOR THE PREBLE'S MEADOW JUMPING MOUSE
TO LINCOLN MEADOWS COMMERCIAL DEVELOPMENT,
OWNED BY STRAWBERRY TIERRA, INC.
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 Strawberry Tierra, Inc. (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 Lincoln Meadows Commercial Development, owned by Strawberry Tierra, Inc., and associated roads, utilities, and detention ponds on a 106-acre property in Douglas County, Colorado. This property is located in portions of Sections 16 and 15 of Township 6 South, Range 66 West, in 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 development. Approximately 5.47 of the 106 acres will be impacted by development. Populations of Preble's are known to occur along Cherry Creek, located within the western portion of the Lincoln Meadows 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 enhancement and restoration of vegetation on site at a ratio of 1.5:1 to offset proposed 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 5.37 acres of temporary disturbance and 2.06 acres of habitat creation and enhancement. Activities will consist of native shrub, tree and grass planting and reseeding with a native seed mix.

This alternative was selected as the proposed action as it will allow development of the property 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 (Savage & Savage 2002), any and all written agreements between Lincoln Meadows and the Service, the biological opinion on the Lincoln Meadows permit application (Service 2002a) and the recommendations and findings for the Lincoln Meadows commercial 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 future loss of 5.47 acres of upland habitat at the Lincoln Meadows site. This upland area 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 permanent loss of 0.10 acres of potential habitat associated with issuance of the permit to Lincoln Meadows would not compromise the status of Preble's or its recovery needs for several reasons. The total mitigation area of 7.53 acres, as described in the HCP, includes approximately 2.06 acres of land that will be created and enhanced as Preble's habitat and a 50-foot corridor on the west edge of the property which will be enhanced as Preble's habitat. The detention pond area restored for Preble's is included with total mitigation acreage and is protected from further development under long-term Douglas County water facility regulations. 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 parking area 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 5.47 acres of impacts by the following mitigation methods. 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 5.37 acres of restoration and 2.06 acres of enhancement are fully described in pages 12-15 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 Lincoln Meadows commercial development project will not have a significant effect on the human environment for the following reasons:

1. The loss of 5.47 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 additional alternatives in the EA: (1) preferred alternative; (2) alternate site location; 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 commercial development and conservation efforts to mitigate for impact to Preble's habitat would not take place.

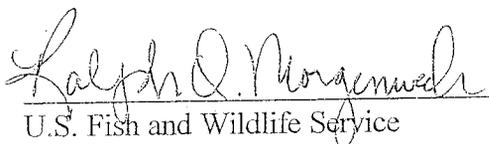
The Service did not select the alternatives to the proposed action for the following reasons: The alternate site location alternative was rejected for its lack of environmental benefits and its probability of placing undue economic burden on the landowner. The company does not own other properties within the area and would presume relocation to another less desirable site. The alternate design alternative was rejected because it could result in avoidable impacts to riparian habitat and additional Preble's habitat. 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 0.10 acres of Preble's habitat will be permanently disturbed, 2.06 acres will be enhanced and 5.37 acres will be restored. An additional 27 acres has subsequently been dedicated as open space to the Town of Parker, Colorado. Through the conservation measures described in the HCP, currently degraded habitat will be improved. The project will also provide much-needed retail and business services, as well as employment

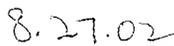
opportunities for the residents of the Town of Parker, affordable housing, and permit the landowner's economically viable use of the land.

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 March 21, 2002. Publication of a notice initiated a 60-day comment period. Copies of the EA/HCP also were provided to interested parties. The Service did not receive any comments on the proposed action during the public comment period.

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-053241 to the Applicant for take of the federally threatened Preble's meadow jumping mouse associated with the proposed Lincoln Meadows Commercial Development 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.



U.S. Fish and Wildlife Service
Regional Director



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 Lincoln Meadows, 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 Strawberry Tierra, Inc. for construction of a commercial development on the 106-acre site in Douglas County, Colorado.

Savage & Savage, 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 Commercial Development at Lincoln Meadows for Strawberry Tierra, Inc.*, 19 pp. plus exhibits and appendices.