



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Colorado Field Office
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IN REPLY REFER TO:

ES/CO: ES/LK-6-CO-03-F-032
Permit Number: TE-073390-0
Mail Stop 65412

**FINDING OF NO SIGNIFICANT IMPACT
FOR ISSUANCE OF AN INCIDENTAL TAKE PERMIT
FOR THE PREBLE'S MEADOW JUMPING MOUSE
FOR THE STRUTHERS RANCH PROPERTY
EL PASO COUNTY, COLORADO**

The U.S. Fish and Wildlife Service (Service) is proposing to issue a section 10(a)(1)(B) Incidental Take Permit (ITP) under the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended (Act), to the Struthers Ranch Development, LLC (the Applicant). The ITP would authorize the incidental take of the federally threatened Preble's meadow jumping mouse, *Zapus hudsonius preblei* (Preble's), in association with the construction and use of a residential and commercial development on the Struthers Ranch Property. This property is located in Section 36 of Township 11 South, Range 67 West, southeast of the Town of Monument, El Paso County, Colorado. The duration of the proposed ITP is 30 years. The Environmental Assessment (EA) evaluates the potential environmental effects associated with the activities necessary for the Applicant to construct the facilities and associated infrastructure. Development of the proposed project will occur on 66.72 acres of the 107-acre Struthers Ranch, but within the property's 48.93 acres of known Preble's habitat, approximately 15.24 acres will be permanently impacted by these activities. Populations of Preble's are known to occur along Black Forest Creek on the 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 measures of the HCP are the enhancement, restoration and creation of 35.49 acres of habitat on site at a ratio of 2.168:1. To offset temporary impacts, 1.13 acres will be restored with native grass seeding and native shrub planting on site. To offset 15.24 acres of permanent impacts, 32.84 acres of habitat will be restored and enhanced through a combination of removing grazing pressures, weed control and planting and seeding of native species; and an additional 2.65 acres of habitat will be created through a detention pond and wetland area. The permit authorizes a limited amount of incidental take associated with disturbances that will occur with the completion of the proposed project.

The Preferred Alternative was selected as the proposed action as it will allow the Applicant to develop portions of the property by providing a conservation plan that would preserve and enhance Preble's habitat along Black Forest Creek.

Documents used in the preparation of this Finding of No Significant Impact (FONSI) include: the HCP and the EA for the HCP (SWCA 2003), the Biological Opinion on the Applicant's EA/HCP (Service 2003a), and the Findings and Recommendations for the Struthers Ranch Property activities (Service 2003b). All documents are incorporated by reference, as described in 40 CFR §1508.13.

The proposed ITP would authorize the incidental take of an unquantifiable number of Preble's due to the temporary loss of 1.13 acres and permanent loss of 15.24 acres of riparian and upland habitat on the Struthers Ranch Property. These areas provide potential foraging, sheltering, nesting, and hibernating habitat for Preble's. The Service is unable to determine the specific number of individuals of Preble's that would be taken because of their small size, secretive nature, and the numbers of individuals present on a site may vary from season to season and year to year. 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 15.24 acres, and temporary disturbance of 1.13 acres of suitable habitat associated with issuance of the ITP to the Applicant would not compromise the status of Preble's or its recovery needs for several reasons. The total mitigation area of 35.49 acres, as described in detail in the EA/HCP, includes permanently protected land that will be enhanced, restored and/or created as Preble's habitat. Native shrub planting and native grass seeding on 24.79 acres will enhance and restore riparian and upland areas; 8.05 acres of uplands will have limited enhancement consisting of weed control and removal of grazing pressures to encourage existing native grass recovery; and a detention pond will create habitat on 2.64 acres. In addition to mitigation measures, the Applicant has a comprehensive set of deed restrictions in place for development of all or part of the Property, including provisions for habitat alterations, free roaming pets, and continuous fencing around residential areas. These measures should produce a net benefit to Preble's.

The EA considered environmental effects of the Preferred Alternative on other aspects of the human environment, such as geology and soils, land use, cultural resources, air quality, wetlands, water resources and water quality. A summary of these issues and impacts is included in the EA. The Service finds that the proposed issuance of a section 10(a)(1)(B) ITP for take of Preble's in association with the Struthers Ranch Property will not have a significant effect on the human environment for the following reasons:

1. The permanent loss of 15.24 acres, and temporary loss of 1.13 acres of potential habitat resulting from construction of the 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 relatively small area subject to disturbance within the total subject property.
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 Project 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) no action; (2) alternate development plan; (3) participation in the regional HCP. The proposed project alternative involves issuance of a section 10(a)(1)(B) incidental take permit. The Service did not select the alternatives to the proposed action for the following reasons. The no-action alternative would mean that the proposed development project would be abandoned and no application for an incidental take permit would be processed. This alternative would not eliminate the need for future development along the creek and would not remediate already impacted areas or enhance Preble's habitat along Black Forest Creek (as with the proposed action). The alternate development plan alternative would have resulted in greater impacts to upland areas and reduce the size of the preserved area. The participation in the El Paso County Regional Habitat Conservation Plan alternative was considered non-practicable because it is unknown when the Regional HCP will be approved or if it will address the proposed project.

Because it successfully balances environmental impacts with benefits to the community, the Service chose the Preferred Alternative of the EA. Although permanent loss of 15.24 acres, and temporary disturbance of 1.13 acres, could result, 35.49 acres of Preble's habitat will be enhanced and restored under this alternative. Through the conservation measures described in the HCP, currently degraded habitat would be improved. The proposed alternative would also allow the Applicant to provide additional residential housing for a county experiencing rapid population growth.

The FONSI and issuance of the ITP are conditional on a signed and finalized Deed of Sale for the subject property, as described in Section 1.2, and a signed and finalized Deed Restriction placed upon the subject property, as described in Section 6.6.9.3 of the EA/HCP, and a signed and finalized placement of bond, as described in Section 6.6.9.5 of the EA/HCP, submitted to the Service's Colorado Field Office within ninety (90) days of Notice of Issuance in the Federal Register. If all documents are not signed within that time frame, the Permit will become temporarily inactive until suitable alternative measure(s) are agreed to by the Service. No construction or disturbance of any kind, temporary or permanent, will be allowed on the subject property until such documents are received and approved by the Service.

On July 3, 2003 the Service issued a notice of availability in the *Federal Register* (Vol. 68, No. 65 FR 16543) announcing the receipt of the ITP application from the Applicant and the

availability of the HCP and EA for public review. A 60-day public comment and review period was open until September 2, 2003. The HCP and EA were available at, or could be requested through, the Colorado Field Office of the Service. The HCP and EA were also distributed to individuals and organizations on a mailing list maintained by the Service. The Service did not receive any comments during the public comment period. Copies of the mailing list and administrative record are on file at the Colorado Field Office.

Based on my review and evaluation of the enclosed EA and HCP and other supporting documentation, I have determined that issuance of a section 10(a)(1)(B) permit TE-073390-0 to the Applicant for take of the federally threatened Preble's from the Struthers Ranch Property in El Paso 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 NEPA 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

12/12/03
Date

RELATED DOCUMENTS:

SWCA Environmental Consultants. 2003. *Environmental Assessment/Habitat Conservation Plan for the Issuance of an Endangered Species Act Section 10(a)(1)(B) Permit for the Incidental Take of the Preble's Meadow Jumping Mouse on the Struthers Ranch Property.* June 2003.

U.S. Fish and Wildlife Service, 2003a. Intra-Service Section 7 Consultation and Biological Opinion on Issuance of an Incidental Take Permit to Struthers Ranch Development, LLC, Colorado Field Office, Lakewood, Colorado.

U.S. Fish and Wildlife Service, 2003b. Findings and Recommendations on Issuance of an Incidental Take Permit for the Preble's Meadow Jumping Mouse to the Struthers Ranch Development, LLC for the Struthers Ranch Property in El Paso County, Colorado.