



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Colorado Field Office
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Lakewood, Colorado 80215

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

Memorandum

To: Regional Director, Region 6
Lakewood, Colorado

From: Assistant Regional Director, Ecological Services, Region 6
Lakewood, Colorado

Subject: Findings and Recommendations on Issuance of an Incidental Take Permit for the Preble's meadow jumping mouse to Continental Homes for the Residential Development at Pinery Glen, Douglas County, Colorado (TE-048568-0)

I. DESCRIPTION OF PROPOSAL

Continental Homes (the Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for a permit to authorize incidental take of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) (Preble's) in accordance with section 10(a) of the Endangered Species Act of 1973, as amended (Act). The Applicant has prepared a combination Environmental Assessment and Habitat Conservation Plan (EA/HCP), which has been submitted in support of their permit application.

The proposed action involves construction of 541 residential single-family lots and associated roads, utilities, and detention ponds for stormwater management. The Property is located within portions of Sections 15 and 22 of Township 7 South, Range 66 West, southwest of the Town of Parker, Douglas County, State of Colorado. The Property comprises 160 total acres, including the residential development, infrastructure, detention basins, and various other areas designated as the location of mitigation activities pursuant to the EA/HCP. The incidental take would be in the form of potential disturbance to and loss of habitat used by Preble's.

The EA/HCP, which is incorporated herein by reference, proposes to minimize and mitigate adverse effects associated with any expected take of Preble's. As outlined in the EA/HCP, the

total mitigation requirements for the Pinery Glen residential development include 46.9 acres of enhancement and 13.76 acres of restoration. 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. The biological goals and objectives of the proposed mitigation plan for both restoration and enhancement activities are (1) to provide as much or more habitat for the Preble's mouse as the amount of potential habitat to be taken by the proposed project and (2) to ensure population viability by maintaining habitat contiguity. The EA/HCP also details success and compliance monitoring criteria.

Analysis of Effects

The effects of the proposed action on Preble's are fully analyzed in the Service's Biological Opinion for the proposed action, herein incorporated by reference. Implementation of the project will result in a loss of 18.79 acres of impact to potential Preble's habitat prior to the Settlement Agreement between the Service and Continental Homes (Appendix B, final EA/HCP) and 2.86 acres of impact that is proposed to occur.

II. PUBLIC REVIEW

The Service published a Notice of Availability of the Draft Environmental Assessment and Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Pinery Glen residential development in Douglas County, Colorado, Colorado, in the Federal Register on October 17, 2001. Publication of the notice initiated a 60-day comment period, which closed on December 17, 2001.

The Service received one comment letter from a private citizen regarding the proposed action during the public comment period.

III. INCIDENTAL TAKE PERMIT CRITERIA - ANALYSIS AND FINDINGS

1. The taking of Preble's will be incidental.

The taking of Preble's will be incidental to the otherwise lawful activity of commercial development.

2. The Applicant will, to the maximum extent practicable, minimize and mitigate the impact of taking Preble's.

The EA/HCP contains measures to minimize and mitigate impacts to Preble's that would occur under the permit, and is incorporated by reference.

3. The Applicant will ensure adequate funding for the HCP and provisions to deal with unforeseen circumstances will be provided.

The Applicants will place funds in an escrow or similar type account that will limit use of the funds for mitigation activities. The Applicants will cover any cost necessary to reach mitigation success as defined in the EA/HCP.

4. The taking will not appreciably reduce the likelihood that the species will survive and recover in the wild.

Approval of the proposed permit has been reviewed by the Service under section 7 of the Act. In the biological opinion, which is incorporated by reference, the Service concluded that issuance of the incidental take permit to the Applicants would not likely jeopardize the continued existence of Preble's.

5. Other measures, as required by the Director of the Service, have been met.

The HCP incorporates all elements determined by the Service to be necessary for approval of the HCP and issuance of the permit.

6. Alternatives

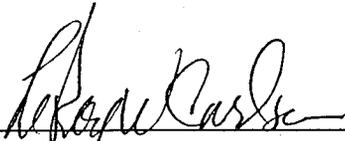
Four alternatives have been identified in the proposed EA/HCP: 1) the proposed action, 2) selection of an alternate site, 3) modification of site design and layout, and 4) no action. The EA/HCP details these alternatives as well as the reason the proposed alternative was chosen and the other three alternatives were rejected as infeasible.

IV. GENERAL CRITERIA AND DISQUALIFYING FACTORS - ANALYSIS AND FINDINGS

The Service has no evidence that the permit should be denied on the basis of the criteria and conditions set forth in 50 CFR 13.21(b)-(c). The Applicant has met the criteria for the issuance of the permit and does not have any disqualifying factor that would prevent the permit from being issued under current regulations.

V. RECOMMENDATIONS ON PERMIT ISSUANCE

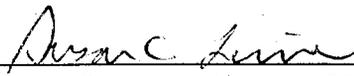
Based on the foregoing findings with respect to the proposed action, I recommend issuance of a permit to authorize incidental taking of the Preble's meadow jumping mouse by the Applicants in accordance with the HCP.



Field Supervisor
Colorado Field Office

3-15-02
Date

Concur:



Assistant Regional Director, ES

3/22/02
Date