



# 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-04-F-023  
Permit Number: TE-083409-0  
Mail Stop 65412

AUG 05 2004

### 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 to Larimer County Parks and Open Lands Department for the Preble's meadow jumping mouse at Eagle's Nest Open Space in Larimer County, Colorado (TE-083409-0)

### I. DESCRIPTION OF PROPOSAL

Larimer County Parks and Open Lands Department (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 the development of a soft or natural-surfaced hiking and equestrian trail, horse tie-up area, river access to the Cache la Poudre River, replacement of an existing bridge, and on-going management of Eagle's Nest Open Space located near the Town of Livermore, Larimer County, Colorado. The total project area encompasses approximately 755.0 acres, consisting of riparian habitat along the Cache la Poudre River and adjacent upland grassland. The permitted activity will impact a total of 3.43 acres of Preble's habitat during construction and use, including 2.78 acres of permanent impacts and 0.65 acres of temporary impacts. 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 trail construction, spring development, existing bridge replacement, horse tie-up and river access area at the Cache la Poudre River, and on-going management of the property identifies specific mitigation measures and Best Management Practices (BMP) that would enhance, restore, and permanently protect a combination of both riparian and upland habitat required by Preble's. The biological goals and objectives of the proposed mitigation plan for enhancement activities are (1) to provide as much or more habitat for the Preble's mouse than the amount of potential habitat to be taken, temporarily and permanently, 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. The trail, spring, horse tie-up area, river access area and bridge replacement construction activities will permanently impact a total of 2.78 acres and temporarily impact 0.65 acres of Preble's habitat. The total mitigation acreage of 7.0 acres of both riparian and upland areas is located within 264 acres of a protected conservation zone, and includes 5.0 acres of enhancement, 1.0 acre of reclamation to an existing dirt road, 1.0 acre of revegetation to areas disturbed during bridge replacement and spring development, and additional fencing of the Cache la Poudre River riparian habitat to limit livestock and public access to the river.

## 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 at Eagle's Nest Open Space in Larimer County, Colorado, Colorado, in the Federal Register (Vol. 69 No. 39 FR 9365) on February 27, 2004. Publication of the notice initiated a 60-day comment period, which closed on April 27, 2004.

The Service did not receive any comment letters 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 trail construction, spring development, horse-tie up and river access area development, existing bridge replacement, and on-going management of the subject property.

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 shall 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 Applicant will cover any cost necessary to implement the EA/HCP and reach mitigation success as defined in the EA/HCP, as described in Section D.3 of the EA/HCP.

4. **The taking will not appreciably reduce the likelihood that the species will survive and recover in the wild and will not adversely modify critical habitat.**

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 Permit to the Applicants would not likely jeopardize the continued existence of Preble's and would not likely adversely modify critical habitat.

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.

#### Alternatives

Four alternatives have been identified in the proposed EA/HCP: 1) preferred (proposed) alternative; 2) develop the site more intensively with less avoidance of Preble's habitat; 3) no action; 4) alternate site location. 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

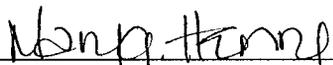
The Service has no evidence that the Permit should be denied on the basis of the criteria and conditions set forth in 50 CFR §13.21(b)-(c). The Applicant has met the criteria for the issuance of the Permit and does not have any disqualifying factor that would prevent the Permit from being issued under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

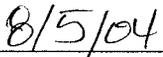
V. RECOMMENDATIONS ON PERMIT ISSUANCE

Based on the foregoing findings with respect to the proposed action, the Service recommends issuance of a section 10(a)(1)(B) incidental take permit number TE-083409-0 to authorize incidental taking of the Preble's by the Applicant in accordance with the EA/HCP.

  
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Field Supervisor  
Colorado Field Office

  
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Date

Concur:   
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Assistant Regional Director for  
Ecological Services

  
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Date