



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
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ES/GJ-6-CO-99-F-035

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Mail Stop 65412

Memorandum

To: Regional Director, Region 6
Lakewood, Colorado

From: Geographic Assistant Regional Director, Region 6
Lakewood, Colorado

Subject: Findings and Recommendations on Issuance of an Incidental Take Permit for the Preble's meadow jumping mouse to R.L. Hier and H.R. Gannon for Development of the Brookside Office Park and the Brookside Business Center, Douglas County, Colorado (PRT-TE017353)

I. DESCRIPTION OF PROPOSAL

R.L. Hier and H.R. Gannon (the Applicants) have 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 and development of two specific projects (the "Projects"): (1) the Brookside Office Park (the "Office Park") and (2) the Brookside Business Center (the "Business Center"). The Property is located within portions of Sections 11, 14, 15, and 23 of Township 8 South, Range 67 West, 6th Principal Meridian, Town of Castle Rock, Douglas County, State of Colorado. The Property comprises 84.5 total acres, including the Office Park, the Business Center, and various other areas designated as the location of mitigation activities pursuant to the EA/HCP. The Office Park is more specifically described as The Centre on Plum Creek Filing No. 2, a part of Sections 11 and 14, Township 8 South, Range 67 West, 6th Principal Meridian, Town of Castle Rock, Douglas County, State of Colorado. The Business Center is more specifically described as Filing No. 5, a part of Sections 11, 14, 15, and 23, Township 8 South, Range 67 West, 6th Principal Meridian, Town of Castle Rock, Douglas

County, State of Colorado. 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 Office Park include the (1) restoration at .69 acres, all of which occurs on the Office Park site, and (2) enhancement at 5.19 acres, .56 acres of which occur on the Office Park site and 4.65 acres offsite. The total mitigation requirements for the Business Center will be accomplished through the enhancement of 18.39 acres. The 4.65 acres remaining to be enhanced for mitigation of the Office Park and 18.39 acres required for enhancement to mitigate the impacts of the Business Center necessitate a total additional enhancement of 23.04 acres. The remaining portion of the property has been partitioned into five enhancement units (Units A, B, C, D, and E) to more accurately estimate acreage and to facilitate photo reference. Enhancement A is 4.708 acres, B is 2.188 acres, C is 5.588 acres, D is 3.337 acres, and E is 7.220 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 – 7.28 acres – to be taken by the Projects 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 (U.S. Fish and Wildlife Service 1999) for the proposed action, herein incorporated by reference. Implementation of the project will result in a loss of 7.28 acres of potential Preble's habitat.

II. PUBLIC REVIEW

The Service published a Notice of Availability of Draft Environmental Assessment and Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for Construction of Office Park and Business Center, Castle Rock, Colorado, in the Federal Register on October 5, 1999. Publication of the notice initiated a 30-day comment period, which closed on November 4, 1999.

The Service received no comments 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 Applicants 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 Applicants 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 (construction of the Projects), 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 Applicants have met the criteria for the issuance of the permit and do 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

12-16-99
Date

Concur:


Geographic Assistant Regional Director

12-17-99
Date