



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Colorado Field Office
755 Parfet Street, Suite 361
Lakewood, Colorado 80215

IN REPLY REFER TO:
ES/GJ-6-CO-00-F-010
Mail Stop 65412

APR 11 2000

Memorandum

To: Regional Director, Region 6
Lakewood, Colorado

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

Subject: Findings and Recommendations on Issuance of an Incidental Take Permit for the Preble's meadow jumping mouse to Tracy and Lana Leonard for the construction of two single family residences on the 28.5 acre Leonard Property, in Boulder County, Colorado, Colorado (TE024039)

I. DESCRIPTION OF PROPOSAL

Tracy and Lana Leonard (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 Applicants have 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 two single family residences on the 28.5 acre Leonard Property, in Boulder County, Colorado. This property is located at 11666 Crane Hollow Road, 1/4 mile south of Hygiene Road in the Northeast 1/4 of Section 35, Township 3, Range 70 West of the Sixth Principal Meridian.

Tracy and Lana Leonard have obtained a Non Urban Planned Unit Development (NUPUD) permit from Boulder County for development of their property which includes preservation of their historic homestead and creation of two additional building sites for family members. The approved Leonard NUPUD Outlot Management Plan (Figure 2) shows that the Leonard property originally totaled 35 acres. This included 3 residential lots totaling 5.25 acres (one historic home site totaling 2.25 acres and 2 new home sites totaling 3.0 acres), and outlots totaling 29.75 acres. The 6.5 acre Outlot A was sold under the approved NUPUD. Outlots C, D and E (totaling 1.75 acres) were used for the realignment of Crane Hollow Road. The majority of the property (21.5

acres) is in Outlot B which include the St. Vrain Creek Riparian Preservation Area (6.0 acres), a Recreation/Landscape Zone (8.3 acres), and an Agriculture Zone (7.2 acres). The St. Vrain Creek and associated riparian corridor traverses the northern portion of the property. The Recreation/Landscape Zone includes a 7 acre pond in the central portion of the property, and a 2 acre pond east of the occupied residence. The Agriculture Zone is composed of 2 parcels, the largest is an irrigated pasture located on the southern extent of the property. The entire original 35 acres with the exception of the residential lots have been granted to Boulder County through a conservation easement which will protect the St. Vrain Creek, its associated riparian communities, the adjacent pastures, and the ponds into perpetuity.

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 proposed take will be minimized and mitigated with the following measures, many of which have been implemented over the past several years to protect Preble's and wildlife in general as confirmed by Colorado Division of Wildlife. Many of these protection measures were initiated prior to the listing of mouse and were completed as proactive wildlife conservation. These measures include:

- Protection of the St. Vrain Creek Corridor through a conservation easement in perpetuity.

Tracy and Lana Leonard have entered into a conservation easement on August 20, 1999 with Boulder County to preserve 21.5 acres in outlots B. Under the terms of the easement, the outlots are to be managed for agriculture, wildlife and recreation. No structures (with the exception of dock/deck connections and a loafing shed) are allowed to be built. No further subdividing of the property is permitted. Since all of this area with the exception of the surface area of the pond (7 acres total) is considered Preble's habitat, 14.5 acres of useable mouse habitat will be preserved.

- Gravel mining operations were conducted with sensitivity for wildlife, particularly Preble's and its habitat.

In 1996, the Leonard's completed a mining plan with Golden Andesite Mining Company to allow the extraction of aggregate from their property. The environmental goals of the mining reclamation plan included: "Create and preserve a diversity of plant communities and wildlife habitat and to Create and enhance diverse, functional wetland communities." The gravel mining resulted in the completion of a 7 acres pond in the central portion of the property. Disturbed areas have been replanted according to the specifications of the revegetation plan. Protection measures for Preble's included allowing mining only during the mouse hibernation period. Existing mature cottonwood trees were protected through watering during the mining operation to prevent the loss of ground water.

- The shoreline of the 7 acre pond has been designed to create 3.1 acres of new palustrine emergent, scrub/shrub, and forested wetlands (Cowardin, 1979).

The perimeter of the ponds will be vegetated primarily by a willow/cottonwood community typical of the St. Vrain Corridor in this area. Trees and shrubs will be planted along the wetland bench. Species may include: American Plum (*Prunus americana*), Plains Cottonwood (*Populus deltoides*), Peachleaf Willow (*Salix amygdaloides*), Common Chokecherry (*Prunus virginiana*), Common Snowberry (*Symphoricarpos albus*), Three-leaf Sumac (*Rhus trilobata*), and Sandbar Willow (*Salix exigua*).

- Livestock grazing will be managed within the Riparian Protection Zone and Recreation/Landscape Zones as to protect Preble's Meadow Jumping Mouse habitat.

As outlined in the Outlot Management Plan, no livestock grazing will be permitted in the Riparian-Protection Zone with the exception of limited controlled access to the river.

- Relocate Crane Hollow Road farther away from mouse habitat than originally planned.

Crane Hollow Road was moved approximately 150' to the west to help consolidate the applicants property, remove a dangerous curve, and to enhance wildlife habitat. The affect of this action will allow more feeding habitat for the mouse adjacent to the river without the threat of the road.

- The proposed building sites (residential lots) are clustered and located farther away from preferred mouse habitat than originally planned.

The proposed residential lots were originally located between St. Vrain Creek and the 7 acre pond. After discussions with Colorado Division of Wildlife, it was decided to relocate the residential lots to the north and west shores of the pond in order to better protect habitat for Preble's and other wildlife species.

- Approximately 3.0 acres of upland adjacent to St. Vrain Creek will be replanted with native grasses. Revegetation of 1.5 acres of the upland area between the riparian area and the ponds will be completed within five years. The orchard (1.5 acres) will be revegetated at the time of orchard planting.
- The loss of 3.0 acres of mouse habitat will be compensated through the protection of St. Vrain Creek, restoration of native grasses and development of riparian shrubs and wetlands.

The creation of 3.1 acres of wetland and riparian zone at a 3:1 ratio will provide 1.03 acres of compensation. The enhancement of 3.0 acres through native grass planting at a 2:1 mitigation will provide 1.5 acres of compensation. The St. Vrain corridor and its associated riparian areas, irrigated pastures, and grasslands will be protected from all future development through the conservation easement with Boulder County. This action protects 14.5 acres of mouse habitat (the 21.5 acre outlot B minus the surface area of the 7 acre pond). Since a portion of this 14.5 acres will be mitigated with methods described

above, 8.4 acres will be applied to the conservation mitigation ratio which at a 10:1 mitigation ratio provides 0.84 acres of compensation. Total mitigation for the 3.2 acres impacted is conservation of 8.4 acres of usable mouse habitat, 3.1 acres of created wetlands, and 1.5 acres of enhanced habitat.

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 2000) for the proposed action, herein incorporated by reference. Implementation of the project will result in a loss of 3.2 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 Two Residential Home Sites on the Leonard Farm, Hygiene, Colorado, in the Federal Register on December 14, 1999. Publication of the notice initiated a 30-day comment period, which closed on January 13, 2000.

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 proposed action involves construction of two single family residences on the 28.5 acre Leonard Property, in Boulder County, Colorado. 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 agree to make funding available for all mitigation activities. The Applicants will cover any cost necessary to reach mitigation success as defined in the HCP/EA.

- 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

Five 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, 4) waiting on approval of a regional section 10(a)(1)(B) permit, and 5) No Action. The EA/HCP details these alternatives as well as the reason the proposed alternative was chosen and the other four alternatives were rejected as infeasible.

IV. GENERAL CRITERIA AND DISQUALIFYING FACTORS - ANALYSIS AND FINDINGS

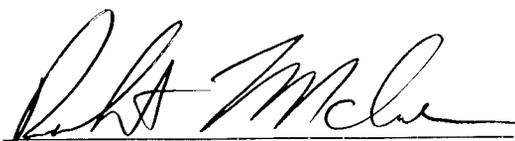
The Service has no evidence that the permit should be denied on the basis of the criteria and conditions set forth in 50 CFR 13.21(b)-(c). The Applicants have met the criteria for the issuance of the permit and do not have any disqualifying factor that would prevent the permit from being issued under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

4-6-00
 Date

Concur: 
 Geographic Assistant Regional Director

4-11-00
 Date