



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-03-F-011
Permit Number: TE-068418-0
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 the City and County of Denver, acting by and through its Board of Water Commissioners (Denver Water) for the Denver Water Properties, Boulder, Jefferson, and Douglas Counties, Colorado (TE-068418-0)

I. DESCRIPTION OF PROPOSAL

Denver Water (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 Operations and Maintenance (O&M) activities necessary for Denver Water to meet its mission of providing safe and high quality water supply to its customers. The Properties are located within upper elevations of 7,600 feet in mountainous terrain, through lands in the Colorado piedmont at mid-elevations, to lower elevations on the plains near Denver in portions of Boulder, Jefferson, and Douglas Counties, Colorado. The area comprises approximately 6,143 acres (201 acres of occupied habitat and 5,942 acres of suitable and potentially occupied habitat), including 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 O & M activities at Denver Water Properties identifies specific mitigation measures that would create, preserve, or enhance a combination of both riparian and upland habitat required by Preble's. 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. Operation and Maintenance (O&M) activities could permanently alter no more than 10 acres of Preble's habitat, but are estimated to only permanently impact 1 acre. Additionally, up to 74 acres of suitable and potentially occupied Preble's habitat could be temporarily impacted, with total impacts not to exceed 75 acres (either 1 acre permanent and 74 acres temporary or ranging up to no more than 10 acres permanent and 65 acres of temporary disturbance). No more than 25 acres of temporary take may occur at any one time under the HCP.

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 City and County of Denver's Board of Water Commissioners (Denver Water) in Boulder, Jefferson, and Douglas County, Colorado, Colorado, in the Federal Register (68 FR 6756) on February 10, 2003. Publication of the notice initiated a 60-day comment period, which closed on April 11, 2003.

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 operations and maintenance activities.

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 Applicant will cover any cost necessary to reach mitigation success as defined in the EA/HCP. The Applicant has budgeted for this plan and activities in the 2003 Operations Plan of Denver Water's Budget and will have a separate line item in the budget in consecutive years.

4. The taking will not appreciably reduce the likelihood that the species will survive and recover in the wild and will not adversely modify proposed 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 incidental take permit to the Applicants would not likely jeopardize the continued existence of Preble's and is not likely to destroy or adversely modify proposed 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.

6. Alternatives

Five alternatives have been identified in the proposed EA/HCP: 1) no action, 2) individual ITPs on a site-by-site/project-by-project basis, as needed, 3) waiting for approval of and participating in three separate countywide HCPs, 4) waiting for and participating in a single Statewide HCP, 5) preferred (proposed) alternative. 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 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

4/29/03
Date

Concur:




Assistant Regional Director for
Ecological Services

4-30-03
Date