

January 12, 2017

Ms. Brooke Davis
Denver Regulatory Office
U.S. Army Corps of Engineers
9307 South Wadsworth Boulevard
Littleton, CO 80128-6901

RE: Larkspur Travel Center Permit Application and Biological Assessment
Response to Comments

Dear Ms. Davis:

ERO Resources Corporation (ERO), on behalf of Off-the-Chain 2, LLC (Client), is providing the following responses to comments received from the U.S. Fish and Wildlife Service (Service) on the Biological Assessment (BA) for the proposed Larkspur Travel Center project.

U.S. Fish and Wildlife Service Comments

Comment 1 (email sent 12/29/2016): Also, at our December 20 meeting, I asked if you would look into protecting some of the private properties between the confluence and the park and thank you for adding the 7th parcel; however, I would like to see an email or some other documentation of your efforts to deed-restrict some of the others.

Response: After adding the 7th parcel, the total acreage of preservation is now at 58.11 acres to offset impacts to 9.76 acres of habitat. This results in an almost 6:1 ratio for mitigation. The majority of impacts from the proposed development occurs within the upland foraging habitat for Preble's (8.36 acres), with only minor impacts to the overall or security habitat (1.40 acres). However, the majority of the 58.11 acres of habitat that is proposed to be preserved will be higher quality habitat along East Plum Creek. Because the ratio of mitigation is at 6:1 with higher quality habitat being protected, the Client and ERO do not believe additional preservation of the private property parcels should be required for this project. ERO is unaware that any standard mitigation ratio has been established for Preble's habitat and reiterate that the 6:1 ratio proposed is consistent with the 15% mitigation credit currently being implemented for the Chatfield Reallocation Project. The Client and ERO believe that the proposed mitigation complies with the "Net Benefit Goal" of the Presidential Memorandum (2015) for mitigating impacts on natural resources in the following ways:

- Section 1 Policy: Avoid and minimize harmful effects to wildlife. - While avoidance of harmful effects is not possible the project has been designed and

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1015 ½ Main Avenue
Durango, CO 81301
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161 South 2nd St.
Hotchkiss, CO 81419
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Idaho
4001 East Main Street
Emmett, ID 83617
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revised to avoid the best Preble's habitat by staying out of the RCZ, altering retaining wall design per Service recommendations.

- Section 1 Policy: Protection and restoration of the best locations containing high natural resource values. – The project will protect by deed restriction 58.11 acres of very high quality Preble's habitat to off-set direct and indirect impacts on 9.67 acres of upland habitat dominated by non-native grasses.
- Section 1 Policy: Agency policies should seek to encourage advance compensation. – Deed restrictions will be recorded by the town assessor prior to project completion.
- Section 3(f): "Agencies should address the durability of compensation measures, financial assurances, and the resilience of the measures' benefits to potential future environmental change, as well as ecological relevance to adversely affected resources". – The deed restrictions are in perpetuity providing long-term protection and resilience of the environmental benefits. The ecological relevance of this protection is that impacts to low quality upland habitat will offset by protection of high quality riparian habitat that provide all the primary constitute elements identified for Preble's critical habitat as well as connecting to already protected habitat.

Comment 2 (Figure 4 of BA): *This crossing is not passable. At the end of December it was wall-to-wall water and there's a sheetpile drop downstream. Installing small mammal ramps would improve its permeability and cameras would let us know if it's being used. It would be interesting to do a mark-recapture study above and below this structure to determine if mice move through it then install ramps and cameras.*

Response: As discussed above, the Client and ERO do not believe additional mitigation measures above the preservation of 58.11 acres should be required.

Comment 3 (Figure 4 of BA): *Was any effort made to permanently protect any of these private parcels?*

Response: See response to Comment 1.

Comment 4 (Figure 4 of BA): *Can the riparian zone behind the Fire Department and Town Hall be deed-restricted? This would protect habitat almost, if not all the way, to the confluence with Carpenter Creek and the Douglas County OS.*

Response: As discussed above regarding Comment 1, ERO and the Client do not believe additional preservation should be required above the 58.11 acres already proposed for mitigation. These properties are private and may require subdividing in order to preserve the areas along East Plum Creek. Because of the already high ratio for mitigation and the difficulty in subdividing properties, this was not researched further.

All other comments that were received on the BA have been addressed in the attached revised BA. Please let me know if you need any additional information to complete the Individual Permit application.

Sincerely,



Moneka Worah
Natural Resource Specialist

cc via email: Tim Dumler – Off-the-Chain, LLC
Jesse Donovan – R&R Engineers, Inc.

Attachments

Reference:

Presidential Memorandum (2015). "Mitigating Impacts on Natural Resource from Development and Encouraging Related Private Investment," (hereinafter "White House Memorandum") Nov. 3, 2015. Available online at <https://www.whitehouse.gov/the-press-office/2015/11/03/mitigating-impacts-natural-resources-development-and-encouraging-related>