

Intra-Service Section 7 Biological Evaluation Form - Region 6

Originating Person: Dustin Casady

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- I. **Service Program and Geographic Area or Station Name:** Migratory Bird Management Program, Lakewood, CO
- II. **Flexible Funding Program:** (e.g. Joint Venture, etc.) if applicable:
- III. **Location:** KB Homes Colorado's Westwood Development project (Project), a single-family home development, located in Adams County, within the city limits of Thornton, Colorado.
- IV. **Species/Critical Habitat:** Six species listed as federally endangered or threatened under the Endangered Species Act (ESA) may occur in the Project Area or have potential to be affected by the proposed action. These species include the Preble's meadow jumping mouse (*Zapus hudsonius preblei*), Ute ladies'-tresses (*Spiranthes diluvialis*), one Rocky Mountain specie: gray wolf (*Canis lupus*), and four Platte River species: piping plover (*Charadrius melodus*), whooping crane (*Grus americana*), pallid sturgeon (*Scaphirhynchus albus*), and western prairie fringed orchid (*Platanthera praeclara*). Additionally, monarch butterfly (*Danaus plexippus*), a candidate species for listing under ESA, could potentially occur in the Project area.
- V. **Project Description:** The Project area will disturb approximately 72.2 acres of privately owned lands in a rapidly developing area of Thornton, CO. The Project is a single-family home development consisting of houses, a detention pond, waterlines, sewer infrastructure, roads and driveways, and landscaping. The Project will be constructed in a currently undeveloped area surrounded mainly by agricultural fields and pastures. The closest developments are a half-mile north and a half-mile east. The Project is roughly bounded by Holly Street on the west, Signal Ditch and private property on the north, Monaco Street on the east, and private property on the south (Figure 1). Highway 7/East 160th Avenue is approximately 0.5 mile north and E-470 is approximately 0.5 mile southwest of the project area.

The bald eagle pair is nesting in a plains cottonwood (*Populus deltoides*) tree on the south edge of Signal Ditch within about 145 feet of the closest parcel footprint. The eagle nest is located on private property that is used for agriculture purposes. The adult eagles have occasionally been observed in the Project area. Portions of the project are located within 660 feet of the occupied bald eagle nest. Specifically, 41 parcels and 3 local roads are located within 660 feet of the nest, as well as 9 parcels and 1 local road located within 330 feet of the active nest site. The project construction activities within 660 feet of the occupied nest that may disturb or cause take of bald eagles include, but are not limited to, heavy equipment and light-duty traffic, excavation, building foundations, and vertical construction of single-family residences with associated parking and infrastructure including concrete and asphalt, garages, domestic water distribution, sanitary sewer, storm sewer, landscaping, other miscellaneous construction and field activities, foot traffic, and environmental and safety monitoring.

The need for the federal action is necessitated by the Service Region 6, receiving an application from KB Homes Colorado, Inc for a 5-year incidental eagle take permit (IETP) for the disturbance take of bald eagles associated with the Project.

VI. Determination of Effects:

(A) Description of Effects:

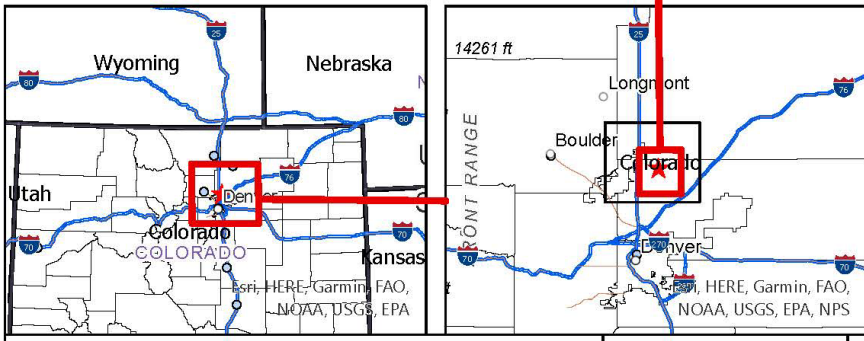
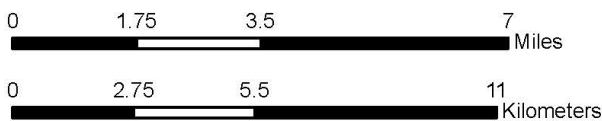
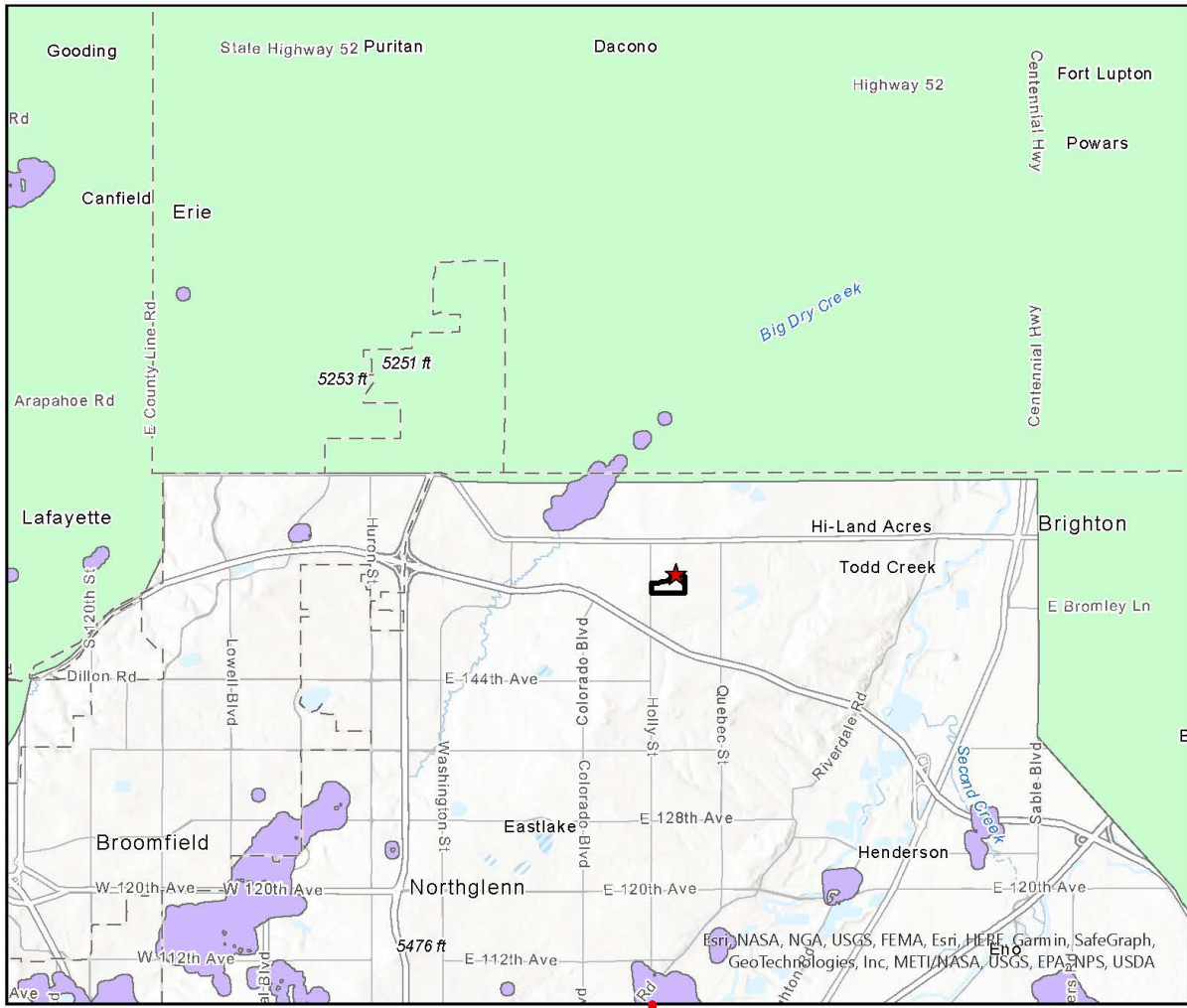
Ute ladies'-tresses

No critical habitat has been designated for Ute-ladies'-tresses throughout its range. The Project does not overlap the Area of Influence (AOI) defined for this species. The AOI identifies areas where proponents of project action should consider potential effects to the species and designated and proposed critical habitat. The AOI typically encompass areas larger than where the species is expected to occur because of consideration for direct and indirect effects to the species and habitat. The Project does not occur within the Ute ladies'-tresses range / AOI (Figure 1).

Preble's meadow jumping mouse

No critical habitat has been designated for Preble's meadow jumping mouse throughout its range. The Project does not overlap the Area of Influence (AOI) defined for this species. The AOI identifies areas where proponents of project action should consider potential effects to the species and designated and proposed critical habitat. The AOI typically encompass areas larger than where the species is expected to occur because of consideration for direct and indirect effects to the species and habitat. The Project does not occur within the Preble's meadow jumping mouse range / AOI (Figure1).

KB Homes Colorado's Westwood Development Project



Legend

1:136,424

- Project_Area
- Nest
- PMJM_Area_of_Influence
- ULT_Area_of_Influence

Coordinate System: NAD 1983 UTM Zone 13N Author: DJC Date Created: 7/27/2023

Figure 1. KB Homes Colorado's Westwood Development Project Preble's Meadow Jumping Mouse Current Range / Area of Influence (AOI) and Ute Ladies'-Tresses Current Range / Area of Influence

The Project area does not contain any T&E species or core and / or critical habitat. Therefore, the proposed action of issuing an IETP for the Project will have no effect on Ute ladies'-tresses and Preble's meadow jumping mouse.

Piping plover, whooping crane, pallid sturgeon, and western prairie fringed orchid

There will be no effect to the downstream Platte River species: piping plover, whooping crane, western prairie fringed orchid, and pallid sturgeon because the proposed action of issuing an IETP for the Project will not result in depletions to the Platte River system.

Gray Wolf

There will be no effect to the Rocky Mountain specie: gray wolf because the proposed action of issuing an eagle take permit for the Project will not result in disturbance to the Rocky Mountain ecosystem.

Monarch butterfly

There will be no effect to the Monarch butterfly because the proposed action of issuing an eagle take permit for the Project will not result in depletions to habitat known to be associated with this species.

(B) Determination: Determine the anticipated effects of the proposed project on species and critical habitats listed in item IV. Check all applicable boxes and list the species (or attach a list) associated with each determination.

Determination

No Effect: This determination is appropriate when the proposed project will not directly or indirectly affect (neither negatively nor beneficially) individuals of listed/proposed/candidate species or designated/proposed critical habitat of such species. **No concurrence from ESFO required. Preble's meadow jumping mouse, eastern black rail, Ute ladies'-tresses, monarch butterfly, and four Platte river species: pallid sturgeon piping plover, whooping crane, western prairie fringed orchid**

XX

May Affect but Not Likely to Adversely Affect: This determination is appropriate when the proposed project is likely to cause insignificant, discountable, or wholly beneficial effects to individuals of listed species and/or designated critical habitat. **Concurrence from ESFO required.**

May Affect and Likely to Adversely Affect: This determination is appropriate when the proposed project is likely to adversely impact individuals of listed species and/or designated critical habitat. **Formal consultation with ESFO required.**

May Affect and Likely to Adversely Affect but the proposed action is for the purpose of endangered or threatened species recovery and falls under Region 6's Programmatic Consultation on Service-initiated Recovery Actions: This determination is appropriate when adverse effects are likely but the project is designed to assist with recovery of listed species and/or designated critical habitat. **Concurrence from the ESFO that the project is covered by the programmatic consultation is required.**

May affect but Not Likely to Jeopardize candidate or proposed species/critical habitat: This determination is appropriate when the proposed project may affect, but is not expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. **Concurrence from ESFO optional.**

Likely to Jeopardize candidate or proposed species/critical habitat: This determination is appropriate when the proposed project is reasonably expected to jeopardize the continued existence of a species proposed for listing or a candidate species, or adversely modify an area proposed for designation as critical habitat. **Conferencing with ESFO required.**

Signature _____ Date _____

[Supervisor at originating station]

Reviewing Ecological Services Office Evaluation (check all that apply):

A. **Concurrence** _____

Nonconcurrence _____

Explanation for concurrence:

B. Formal consultation required
List species or critical habitat unit

C. Effects are addressed in the Programmatic Consultation on R6's
Recovery Program – no further consultation needed

D. Conference required
List species or critical habitat unit

Name of Reviewing ES Office _____

Signature

Date
