

Wildlife

The El Paso County Environmental Services Department (ESD) has conducted an evaluation of the wildlife resources either currently present or potentially occurring on the Corral Bluffs property (the Property). The focus of ESD's evaluation was on wildlife resources that have a regulatory component. These included federally threatened and endangered species, migratory birds, special species such as golden eagles and species listed by the state of Colorado as threatened, endangered or species of special concern. Other, non-regulated wildlife resources on the Property were observed and noted through the course of the evaluation.

Regulatory Framework:

Endangered Species Act

Federally listed threatened and endangered species are protected under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. §§ 1531-1544). The ESA is administered by the U.S. Fish and Wildlife Service (USFWS) and prohibits the "take" of a federally listed threatened or endangered species. Take is defined in Section 3(18) of the ESA as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Consultation with the USFWS is required if a proposed project would affect a federally listed species or impact the habitat of a federally listed species.

Migratory Bird Treaty Act

Migratory birds, including raptors, are protected under the federal Migratory Bird Treaty Act of 1918 (MBTA) (16 U.S.C. §§ 703-712). The MBTA is administered by the USFWS and prohibits the unpermitted take of a migratory bird. Take is defined under the MBTA as to pursue, hunt, shoot, wound, kill, trap, capture or collect; or attempt to pursue, hunt, shoot, wound, kill, trap, capture or collect a migratory bird. Protections under the MBTA are extended to active nests including eggs and young. Most birds in Colorado, with the exception of some introduced and game species, are protected under the MBTA.

Bald and Golden Eagle Protection Act

Bald and golden eagles are protected under both the MBTA and the Bald and Golden Eagle Protection Act of 1940 (BGEPA) (16 U.S.C. §§ 668-668d). The BGEPA is administered by the USFWS and extends the protections afforded to bald and golden eagles under the MBTA to include prohibitions against molestation and disturbance. The term "disturb" was defined in 2007 to mean "to agitate or bother a bald or golden eagle to a degree that causes injury to an eagle, a decrease in productivity and/or nest abandonment by substantially interfering with normal breeding, feeding or sheltering behavior.

State Listed Threatened, Endangered or Species of Special Concern

The Colorado Division of Wildlife (CDOW) maintains a list of species determined to be threatened or endangered within the state of Colorado. Regulations and management programs for these listed species are issued by the Colorado Wildlife Commission and

implemented by the CDOW. The take, possession or sale of a state listed species is prohibited. In addition to the state list of threatened and endangered species, the CDOW also maintains a list of species of special concern. Protections under Colorado wildlife statutes are not afforded to species of special concern.

Other Wildlife

Additional protections are not afforded to species beyond those provided under the ESA, MBTA, BGEPA and Colorado statutes for state listed threatened or endangered species.

Assessment Methods:

Endangered Species Act (Federally Listed Threatened and Endangered Species)

The assessment of the Property for species listed under the ESA included the analysis of topographic maps and aerial photos of the proposed project area and a review of existing data from the CDOW's Natural Diversity Information System (NDIS) and the USFWS. A data review of range and habitat preferences for federally listed species was also performed. Additionally, a preliminary site visit was conducted by USFWS and CDOW staff for initial impressions of the Property. ESD conducted reconnaissance throughout the Property during the months of March and April (the initial Study Period) in order to assess presence, potential presence and/or potential habitat for federally listed species.

Migratory Bird Treaty Act (Migratory Birds including Raptors)

A list of avian species observed on the Property during the initial Study Period was maintained by ESD and is included in Appendix 1. Additionally, due to the high potential for use of the Property by nesting raptors and at the direction of USFWS and CDOW staff, ESD initiated raptor surveys in the beginning of April. Methodology for the raptor surveys involved establishing observation points throughout the Property and observing for raptor presence for one hour from each of these points. Observation points were established in areas both above and below the bluffs in order to allow for a comprehensive assessment of potential raptor usage. The raptor survey is currently in progress and will be continued until all areas of the Property are assessed. A map of the raptor observation points is included as Figure 1.

Bald and Golden Eagle Protection Act

The CDOW NDIS data was reviewed for potential bald and golden eagle presence and/or usage of the Property. According to this data, winter or summer bald eagle concentration areas or active nest or roosting areas do not exist on the Property. Detailed CDOW NDIS mapping was not available for golden eagles. However, based upon knowledge of the area, ESD was aware of the potential presence of a golden eagle nest either on or in the vicinity of the Property. Landowners provided ESD with access to the golden eagle nest located on private property northwest of the Property. A meeting was held on March 20 with staff from the USFWS, CDOW, ESD, the El Paso County Parks Department and an interested citizen in order to evaluate and assess the status of the golden eagle nest. At this meeting, it was verified that the nest was active and its exact location was determined through the use of a hand held Global Positioning System unit.

State Listed Threatened, Endangered or Species of Special Concern

A data review of range and habitat preferences for state listed threatened, endangered or species of special concern was conducted. CDOW NDIS data was also reviewed to determine potential presence or usage of the Property by state listed species. Additionally, ESD conducted reconnaissance throughout the Property during the months of March and April in order to assess presence, potential presence and/or potential habitat for state listed species. The CDOW has indicated that western burrowing owls (*Athene cunicularia*) may potentially utilize the Property. Western burrowing owls typically inhabit grassland and shrubland habitat occupying burrows established by prairie dogs and/or ground squirrels. Due to this concern, ESD conducted focused surveys within the Property's grasslands and along the Property's grassland borders for the presence of burrowing owls.

Other Wildlife

During the initial Study Period, the presence of additional wildlife species was noted. A list of the wildlife species observed on the Property is included as Appendix 1.

Assessment Results:

Endangered Species Act (Federally Listed Threatened and Endangered Species)

According to the CDOW's NDIS data, six threatened or endangered species have the potential to occur within El Paso County. These include the greenback cutthroat trout (*Oncorhynchus clarki stomias*), interior least tern (*Sterna antillarum*), Mexican spotted owl (*Strix occidentalis lucida*), piping plover (*Charadrius melodus*), whooping crane (*Grus americana*) and Preble's meadow jumping mouse (*Zapus hudsonius preblei*). Greenback cutthroat trout are found in only a handful of headwater streams in the Arkansas and South Platte river drainages and are adapted to cold, clear, oxygenated streams of moderate gradient (CDOW 2007). The Property lacks suitable habitat to support greenback cutthroat trout. Interior least terns nest on bare sandy shorelines of islands in reservoirs and migrants occur at reservoirs, lakes, and rivers with bare sandy shorelines (CDOW 2007). The Property lacks suitable habitat to support interior least terns. Mexican spotted owls occupy two distinct habitats in Colorado: large, steep canyons with exposed cliffs and dense old-growth mixed forest of Douglas-fir, white fir and ponderosa pine and canyons in pinon-juniper areas with small and widely scattered patches of old Douglas-firs (Anderson and Righter 1992). The USFWS has indicated that there are no concerns with Mexican spotted owls on the Property (Plage pers. communication). Piping plovers inhabit mudflats and shorelines of reservoirs and lakes (CDOW 2007). The Property lacks suitable habitat to support piping plovers. Whooping cranes inhabit mudflats around the shorelines of reservoirs and lakes. The Property lacks suitable habitat to support whooping cranes. The Preble's meadow jumping mouse is found in well-developed riparian vegetation with adjacent, undisturbed grassland communities, or where tall shrubs and low trees provide adequate cover with low undergrowth consisting of grasses and forbs. The Preble's mouse generally occurs in lowlands with medium to high soil moisture along permanent or intermittent streams and irrigation canals (Meaney et al. 1997). The Property lacks suitable Preble's meadow jumping mouse habitat.

Migratory Bird Treaty Act (Migratory Birds including Raptors)

Numerous bird species were observed on the Property during the initial Study Period. It is to be expected that many more birds will utilize the Property for breeding, foraging and shelter throughout the late spring, summer and fall. To date, one active prairie falcon nest has been located in the southeast portion of the Property.

Bald and Golden Eagle Protection Act

As indicated above, the location and status of a golden eagle nest located to the northwest of the Property on an adjacent property has been verified by the USFWS and CDOW. It was determined that this nest is active and golden eagles are in the process of nesting. A probable roosting site was found in the same general area as the nest. During the course of conducting raptor surveys on the Property, ESD continued to search for secondary golden eagle nesting and/or roosting sites. Additional nest or roost sites were not identified.

State Listed Threatened, Endangered or Species of Special Concern

Twelve state listed threatened or endangered species have the potential to occur within El Paso County. Of those twelve, seven are afforded protections at the federal level by the Endangered Species Act and are discussed in the Endangered Species Act section. An additional thirteen species are listed as state species of special concern.

State listed threatened and endangered species are protected from take, possession or sale. This list includes the bald eagle (*Haliaeetus leucocephalus*), lesser prairie chicken (*Tympanuchus pallidicinctus*), plains sharp-tailed grouse (*Tympanuchus phasianellus jamesii*), western burrowing owl (*Athene cunicularia*) and the Arkansas darter (*Etheostoma cragini*). According to the CDOW NDIS data, bald eagle, lesser prairie chicken and plains sharp-tailed grouse areas do not occur on the Property. Arkansas darter habitat consists of clear waters of low current with sandy bottoms and abundant rooted aquatic vegetation (CDOW NDIS). The Property lacks suitable Arkansas darter habitat. Burrowing owl habitat consists of grasslands and semidesert shrublands, usually in or near prairie dog towns (Anderson and Righter 1992). No western burrowing owls were observed on the Property during the initial Study Period.

The CDOW also maintains a list of state species of special concern. These species are not afforded special protections. This list includes the northern leopard frog (*Rana pipiens*), plains leopard frog (*Rana blairi*), ferruginous hawk (*Buteo regalis*), greater sandhill crane (*Grus canadensis tabida*), long-billed curlew (*Numenius americanus*), mountain plover (*Charadrius montanus*), western snowy plover (*Charadrius alexandrinus nivosus*), black-tailed prairie dog (*Cynomys ludovicianus*), Botta's pocket gopher (*Thomomys bottae*), northern pocket gopher (*Thomomys talpoides*), swift fox (*Vulpes velox*), Townsend's big eared bat (*Plecotus townsendii*) and midget faded rattlesnake (*Crotalus viridis concolor*). According to CDOW NDIS data, the Property lacks suitable habitat for the northern leopard frog, plains leopard frog and greater sandhill crane. Additionally, according to the Colorado Breeding Bird Atlas, the Property is not within the range of the long-billed curlew or western snowy plover.

Although the Property is within range and contains potential black-tailed prairie dog habitat, no black-tailed prairie dog towns were observed during the initial Study Period. The Property does appear to be within the range and contain habitat to support the ferruginous hawk, mountain plover, Botta's pocket gopher, northern pocket gopher, swift fox, Townsend's big eared bat and midget faded rattlesnake.

Other Wildlife

Numerous species were observed by ESD during the initial Study Period. A list of species observed on the Property was maintained by ESD staff and is included as Appendix 1.

Recommendations/Conclusions:

Endangered Species Act (Federally Listed Threatened and Endangered Species)

Federally listed threatened or endangered species or potential habitat for federally listed threatened or endangered species was not identified by ESD staff on the Property. Additionally, the USFWS has opined that federally threatened or endangered species do not exist on the Property. Based upon an absence of federally listed threatened or endangered species and/or a lack of habitat supporting federally listed threatened or endangered species, no additional actions or protections are required.

Migratory Bird Treaty Act (Migratory Birds including Raptors)

If the construction of trails occurs in the spring and summer, ESD recommends that all proposed trail routes be evaluated for the presence of active nests with eggs or young immediately prior to commencing any construction activities. If active nests are located, relocation of the trail route or delay of trail construction may be necessary. The purpose of this recommendation is to ensure that violations of the MBTA do not occur. Construction of trails within the fall and winter would not require an assessment of trail routes since nests are not active during this time frame.

To date, one active prairie falcon nest has been located on the Property. The location of this nest is included in Figure 1. The CDOW has prepared a guidance document entitled "Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors." The USFWS has indicated that it will defer to the recommendations in that document for the establishment of buffer zones around raptor nests. Current CDOW guidance suggests a seasonal restriction of human encroachment within ½ mile of an active prairie falcon nest from March 1 through July 15. Additionally, the CDOW recommends "no surface occupancy" with ½ mile of a prairie falcon nest throughout the year. The CDOW defines surface occupancy as any physical object that is intended to remain on the landscape permanently or for a significant amount of time. Examples of surface occupancy include houses, oil and gas wells, tanks, wind turbines, roads and tracks. While the CDOW guidance recommends a ½ mile buffer around prairie falcon nests, there is potential to negotiate with the USFWS and the CDOW to decrease the recommended buffer distance. Factors that may allow for such a decrease include topography, site distances and habitat quality. ESD recommends coordinating with the USFWS and CDOW in order to

establish an acceptable buffer that allows for adequate protection of nesting raptors while still allowing for human utilization of the Property.

Bald and Golden Eagle Protection Act

One active golden eagle nest has been located northwest of the Property. The location of this nest is included in Figure 1. The CDOW guidance suggests a seasonal restriction to human encroachment within a ½ mile radius of active golden nests from December 15 to July 15. Additionally, the CDOW recommends no surface occupancy within ¼ mile radius of active golden eagle nests. While the CDOW guidance recommends a ½ mile buffer around golden eagle nests for seven months of the year and ¼ mile buffer for the remaining five months, there is potential to negotiate with the USFWS and the CDOW to decrease the recommended buffer distances. Factors that may allow for such a decrease include topography, site distances and habitat quality. ESD recommends coordinating with the USFWS and CDOW in order to establish an acceptable buffer that allows for adequate protection of golden eagles while still allowing for human utilization of the property.

State Listed Threatened, Endangered or Species of Special Concern

State listed threatened or endangered species were not identified by ESD staff on the Property. However, although no prairie dog towns have been located on the Property, it is within the range for and contains potential habitat for isolated burrowing owls. The CDOW recommends that no human encroachment occur within 150 feet of a burrowing owl nest site from March 15 through October 31. ESD recommends that, if the construction of trails occurs between those dates, all proposed trail routes occurring within grassland areas be assessed to an extent of 150 feet on each side in order to ensure that burrowing owls are not present.

Although no state species of special concern were found, the Property is within the range and contains potential habitat for several of these species. If the listing of any of species of special concern were to be upgraded to threatened or endangered, ESD would recommend conducting more in-depth surveys for such species.

Other Wildlife

ESD recognizes that numerous wildlife species utilize the Property. ESD feels that existing wildlife will adapt to responsible OHV use of the Property.

References

Literature Cited

Andrews, R. and R. Righter. 1992. Colorado birds. Denver Museum of Natural History.

CNDIS (Colorado Natural Diversity Information System). 2007. Available at:
< <http://ndis.nrel.colostate.edu>. Last accessed April 24, 2008.>

Kingery, H.E. (ed.). 1998. Colorado breeding bird atlas. Colorado Bird Atlas Partnership and Colorado Division of Wildlife, Denver.

Meaney, C.A., A. Deans, N.W. Clippenger, M. Rider, N. Daly, and M. O'Shea-Stone. 1997. Third year survey for Preble's meadow jumping mouse (*Zapus hudsonius preblei*) in Colorado. Boulder, CO.

Personal Communication

Plage, P. 2008. Colorado Field Office, U.S. Fish and Wildlife Service. March 28 phone conversation with N. Prieve, El Paso County Environmental Services, Colorado Springs, Colorado. RE: Potential for Mexican spotted owls on the Property.

Appendix 1

Reptiles

Fence Lizard (*Sceloporus undulatus*)

Birds

Turkey vulture (*Cathartes aura*)
Northern harrier (*Circus cyaneus*)
Red-tailed hawk (*Buteo jamaicensis*)
Rough-legged hawk (*Buteo lagopus*)
Golden eagle (*Aquila chrysaetos*)
American kestrel (*Falco sparverius*)
Prairie falcon (*Falco mexicanus*)
Say's phoebe (*Sayornis saya*)
Horned lark (*Eremophila alpestris*)
Black-billed magpie (*Pica hudsonia*)
Common raven (*Corvus corax*)
Canyon wren (*Catherpes mexicanus*)
Mountain chickadee (*Poecile gambeli*)
Mountain bluebird (*Sialia currucoides*)
Spotted towhee (*Pipilo maculatus*)
Dark-eyed junco (*Junco hyemalis*)
Western meadowlark (*Sturnella neglecta*)

Mammals

Coyote (tracks) (*Canis latrans*)
Mountain lion (tracks) (*Felis concolor*)
Kangaroo rat (tracks) (*Dipodomys spp.*)
Porcupine (*Erethizon dorsatum*)
Jackrabbit (*Lepus spp.*)
Rabbit (scat) (*Sylvilagus spp.*)
Mule deer (*Odocoileus hermionus*)

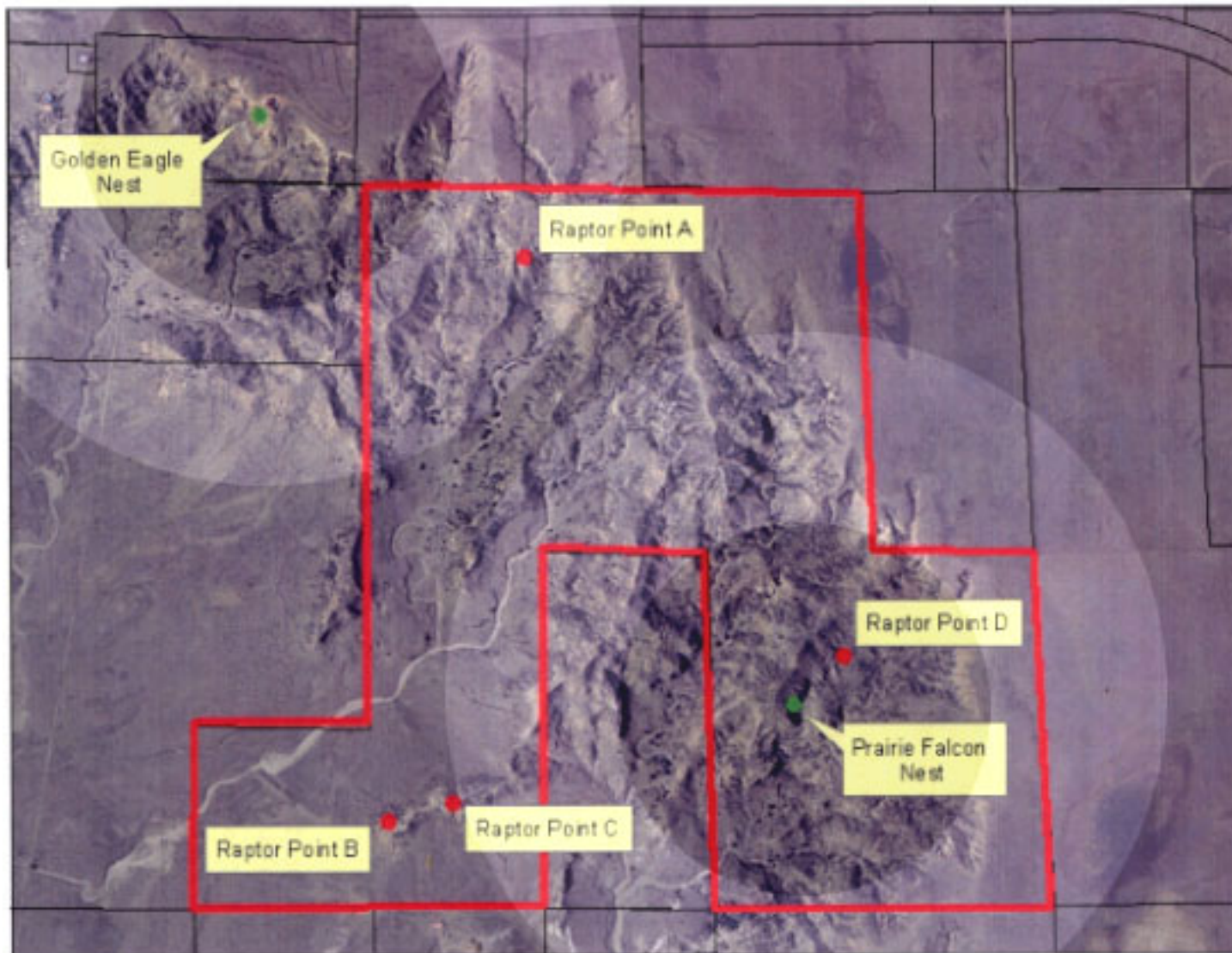


Figure 1.
Raptor Observation Points and Nest Locations



0 625 1,250 2,500
Feet

EL PASO  COUNTY

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