



# COLORADO

## Parks and Wildlife

Department of Natural Resources

Southeast Region  
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October 31, 2023

El Paso County Planning and Development  
Attn: Ryan Howser, Project Manager  
2880 International Circle, Suite 110  
Colorado Springs, CO 80910

RE: Mayberry Filing No. 5 PUD/SP

Dear Mr. Howser,

Colorado Parks and Wildlife (CPW) thanks you for the opportunity to comment on the Mayberry Filing No. 5 PUD/SP. CPW staff is familiar with the proposed location of the project as well as the area surrounding the site. Due to the general nature of the project, CPW comments will address potential impacts to wildlife found on shortgrass prairie habitat

CPW has a statutory responsibility to manage all wildlife species in Colorado; this responsibility is embraced and fulfilled through CPW's mission to protect, preserve, enhance, and manage the wildlife of Colorado for the use, benefit, and enjoyment of the people of the State and its visitors. CPW would respectfully offer the following comments relative to this application:

CPW recommends that all projects be assessed to avoid, minimize, or mitigate impacts to sensitive wildlife habitats and species. That includes species of concern as well as Federal and/or State listed species, big game wildlife (migration corridors, winter range, and parturition areas), breeding and nesting habitats for sensitive ground-nesting birds, and nests of raptors sensitive to development in order to prevent loss of habitat or fragmentation of habitat. US Fish and Wildlife Service (USFWS) should be consulted on any Federally-listed Endangered and Threatened Species that might be present at the location.

Wildlife species that can be found on the project site include: mule deer, white-tailed deer, pronghorn, several bat species, many additional species of small mammals, a variety of reptiles, and a variety of grassland birds. Golden eagles are present year round and utilize the area frequently. Gold eagles, red-tailed hawk, Prairie falcon, and Swainson's hawk, hunt nearby and nest in the surrounding area.



The majority of the project area is shortgrass prairie which provides habitat for the species listed above. Consultation with USFWS is recommended to ensure compliance with the Migratory Bird Treaty Act and the Bald and Golden Eagle Act. The best way to avoid impacts on the nesting efforts of migratory birds is to focus construction activities outside of the breeding season (March 15 - October 31<sup>st</sup>). If construction must occur during the breeding season, surveys for active nests should be conducted prior to groundbreaking. All migratory birds are protected under the Migratory Bird Treaty Act and removal or disturbance of any migratory bird nest would require consultation with CPW and USFWS prior to disturbance.

Burrowing Owls (*Athene cunicularia*), a state threatened bird, may be found within the preferred corridor and CPW recommends a survey of prairie dog colonies prior to construction to determine absence or presence of the species. If nesting burrowing owls are present, CPW recommends no human encroachment within 660 ft. of nesting burrows from March 15 to August 31. If burrowing owls merely occupy the site, it is recommended that earthmoving and other disturbance activities be delayed until late fall after they have migrated. CPW would like to note that the recommended survey protocol and actions to protect nesting burrowing owls document has been updated and revised as of April 4, 2021. If groundbreaking cannot be postponed, surface activity can proceed in areas greater than 660 feet (200 meters) from the nest burrow. If the actual nest burrow cannot be determined, then buffer the entire group of burrows in use. NOTE: For large industrial disturbances (e.g. drilling rigs, residential construction, etc.), CPW recommends a larger buffer of ¼ mile (1320 feet, 400 meters) from the nest burrow.

The proposed project area is within the range of the Mountain Plover (*Charadrius montanus*), a state species of special concern. The Best Management Practices for mountain plover recommend surveys to identify habitat and plover nests within the project area, and plan construction activity outside of critical nesting periods, April 1<sup>st</sup> through August 15<sup>th</sup>, where these species are found. Mountain plovers can nest in short-grass prairie, dryland cultivated farms, and prairie dog towns and are likely to be nesting on the project area.

### **Fencing**

If a new fence must be constructed, CPW recommends that fences, whether wire, wood, electric, or synthetic, be wildlife friendly (not exceed 42 inches in height and not restrict movement of elk or deer). “Fencing with Wildlife in Mind” is a landowner resource available from CPW that is intended to help design and construct wildlife friendly fences that also meet property owners’ needs.

<https://cpw.state.co.us/Documents/LandWater/PrivateLandPrograms/FencingWithWildlifeInMind.pdf#search=fencing%20with%20wildlife%20in%20mind>

### **Household Pets**

Household pets, including cats and dogs, present a threat to native wildlife when new development occurs. Dogs which are allowed to roam may harass and kill wildlife. Dogs outside their yard, kennel or dog-run should be on a leash or otherwise under direct control. Domestic cats are formidable hunters and may be extremely impactful to populations of local birds and small mammals. They may also attract and ultimately become prey for coyotes,

foxes, and other predators. Consideration should be given to the potential impacts and conflicts that could result from free ranging domestic cats. Pet food left outside may attract predators as well as nuisance wildlife species. CPW recommends securing any and all food sources to help mitigate conflict.

### **Noxious Weed Control**

CPW recommends the development and implementation of a noxious weed control plan for the site. All disturbed soils should be monitored for noxious weeds and noxious weeds should be actively controlled until native plant revegetation and reclamation is achieved. Care should be taken to avoid the spread of noxious weeds, and all construction equipment should be cleaned prior to leaving the site. A noxious weed management plan should be developed prior to any disturbance of the site. CPW recommends that all landscaping in the developed area should be comprised of native species. Native plant species can also provide an aesthetically pleasing landscape that requires little maintenance, and are frequently more drought-tolerant than non-native species. Planting of trees and shrubs that are attractive to native ungulates should incorporate the use of materials that will prevent access and damage (fencing, tree guards, trunk guards, etc.).

We appreciate being given the opportunity to comment. Please feel free to contact District Wildlife Manager Philip Gurule, should you have any questions or require additional information at 719-828-4960 or via email at [philip.gurule@state.co.us](mailto:philip.gurule@state.co.us).

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Kroening', with a stylized flourish at the end.

Tim Kroening

Area Wildlife Manager

Cc: Philip Gurule, DWM