



May 27, 2026

U.S Fish and Wildlife Service
Colorado Ecological Services Field Office
134 Union Boulevard, Suite 670
Lakewood, CO 80228

RE: Technical Assistance / Effects Determination Concurrence Request

ECOSphere Project Code: 2026-0094164

Schmidt Development

El Paso County, Colorado

To Whom It May Concern:

This request for technical assistance from the U.S. Fish and Wildlife Service (USFWS) is being submitted in accordance with the requirements of Section 9(a)(1) of the Endangered Species Act (ESA), which prohibits the take of federally listed species and their habitats, and defines such take as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. § 1538). Morley Companies (“Proponent”) is planning to construct the proposed Schmidt residential development (“Project”), to be located southeast of the intersection between Black Forest Road and Research Parkway in El Paso County, Colorado (**Attachment A: Site Location Map**). The Project will involve the development of approximately 74 acres of land within El Paso County Parcel Nos. 5200000570 and 5200000577. The Project will consist of single-family residential lots, local roads, utilities, and other associated facilities and infrastructure. Because Section 9 take restrictions always apply for listed animals, B.E. has reviewed the site for potential habitat that could support listed species which may be affected by site development.

Following review of the site, Bristlecone Ecology, LLC (“B.E.”) has prepared this request for technical assistance for listed species with the potential to be affected by the proposed Project. The proposed schematic design for the Project is attached (see **Attachment B: Site Plan**). Supporting information is provided in the following sections, including a description of the Project and anticipated environmental impact area (EIA) for federally listed species and their respective habitats.

B.E. reviewed lists of threatened, endangered, proposed, and candidate species/critical habitat provided by the USFWS’ Information for Planning and Consultation (IPaC) tool and generated an official species list under ECOSphere Project Code 2026-0094164 (**Attachment C: Official IPaC Species List**). After considering the effects of the proposed activity within the anticipated EIA, B.E. has determined that species warranting protection under the ESA are unlikely to be affected by the subject activity for the following reasons:

- A qualified ecologist with B.E. has determined based on the official species list that federally protected species are unlikely to occur on the site.
- A qualified ecologist with B.E. has determined that any direct, indirect, and cumulative effects on listed species and their habitats can be avoided entirely or kept to a negligible level through Project design and avoidance, minimization, or mitigation (AMM).

Listed Species Reviewed

B.E. reviewed the USFWS' IPaC database for information regarding the potential for threatened, endangered, proposed, and candidate species to occur at the Project site (see **Attachment C: Official IPaC Resource List**). IPaC identified five species as having the potential to occur at the site or be affected by development of the site (**Attachment C**). One of these species – piping plover (*Charadrius melodus*) – is listed under a conditional effects analysis and only needs to be considered if a project will involve water depletions in the N. Platte, S. Platte, or Laramie River basins. The Project is located in the Arkansas River basin and thus will not affect this species. The four remaining species listed in the IPaC query were the federally threatened Eastern black rail (*Laterallus jamaicensis* ssp. *jamaicensis*), and Ute ladies'-tresses orchid (*Spiranthes diluvialis* or ULTO); and two species proposed for listing as threatened and endangered, respectively – monarch butterfly (*Danaus plexippus*) and Suckley's cuckoo bumblebee (*Bombus suckleyi*). Each species is discussed individually in the table below (**Table 1**). Those species potentially affected or those requiring additional information are discussed in detail below. There is no Critical Habitat within the vicinity of the Project area (USFWS 2026b).

Table 1. Federally Listed T&E Species Potentially Impacted by the Project (USFWS 2026a)

Common Name	Scientific Name	Habitat Requirements and Likelihood of Impacts	Federal Status ¹
Birds			
Piping plover	<i>Charadrius melodus</i>	Listed under a conditional effects analysis for water depletions in the N. Platte, S. Platte and Laramie River Basins, which may affect listed species in Nebraska. Likelihood of impacts: None, the Project is located in the Arkansas River Basin.	FT
Eastern black rail	<i>Laterallus jamaicensis</i> ssp. <i>jamaicensis</i>	Subspecies of black rail that occurs east of the Rocky Mountains in North America. Black rails are small, cryptic marsh/wetland specialists, and depend entirely upon these habitats to support their resource needs. Requires dense overhead cover (usually cattails [<i>Typha</i> spp.] or bulrushes [<i>Schoenoplectus</i> / <i>Scirpus</i> spp.]) and moist to saturated soils. Eastern black rails have been expanding their range in Colorado. Likelihood of impacts: Unlikely, there is a small amount of suitable habitat available in the marsh wetlands onsite, however, this area is small and will not be impacted by the Project.	FT
Flowering Plants			
Ute ladies'-tresses orchid	<i>Spiranthes diluvialis</i>	Primarily occurs along seasonally flooded river terraces, sub-irrigated or spring-fed abandoned stream channels, and lakeshores. May also occur along irrigation canals, berms, levees, irrigated meadows, gravel pits, borrow pits, and other human-modified wetlands. There are no known populations in El Paso County, and the site is at or above the elevation threshold (7,000 feet) where ULTO occurs. Likelihood of impacts: Unlikely, there are no known populations in EPC, nearly the entire site is at or above the elevation threshold for ULTO, and there is no suitable habitat for the species. In addition, the species has been proposed for delisting.	FT

¹FE= Federally Endangered; FT=Federally Threatened; ST=State Threatened; C=Candidate for Listing; P= Proposed

Table 1. Federally Listed T&E Species Potentially Impacted by the Project (USFWS 2026a)

Common Name	Scientific Name	Habitat Requirements and Likelihood of Impacts	Federal Status ¹
Insects			
Monarch butterfly	<i>Danaus plexippus</i>	Monarch butterflies require milkweeds (<i>Asclepias</i> spp.) as a host plant. Caterpillars consume the plant, and adults lay their eggs on milkweed. Monarch butterfly is a Proposed Threatened species for listing under the ESA. While there are no requirements until a listing decision is made, a 4(d) Rule has been proposed and due diligence is encouraged. Likelihood of impacts: Unlikely, there were no milkweed plants observed on the site.	P
Suckley's Cuckoo Bumble Bee	<i>Bombus suckleyi</i>	Suckley's cuckoo bumblebee is a social parasite that relies entirely on other species of bumblebees as hosts. The last confirmed sighting in the U.S. was in 2016 in Oregon (USFWS 2026a). May be found anywhere robust bumblebee colonies are present. While there are no requirements until a listing decision is made, due diligence is encouraged. Likelihood of impacts: Very unlikely, site development is unlikely to affect bumblebee host colonies.	P

¹FE= Federally Endangered; FT=Federally Threatened; ST=State Threatened; C=Candidate for Listing; P= Proposed

Eastern black rail

Eastern black rails have been listed as federally threatened since October 2020 with a 4(d) rule that provides measures that are necessary and advisable to conserve the species (85 FR 63764). For habitat, they require shallow wetlands with dense herbaceous vegetation, usually cattails or bulrushes in Colorado (CPW, n.d.). Emergent vegetation will ideally cover between 90-100% of the total ground cover, according to the Habitat Scorecard for Black Rails v. Jan 2016 (CPW, n.d.) They prefer habitats where surface water is less than 1.2 inches, and does not fluctuate (CPW, n.d.). They may also use the transitional areas between emergent wetlands and upland grasslands to hide from predators and during flooding events.

At the site, there is a small amount of suitable habitat for this species in the emergent wetlands that support cattails along Cottonwood Creek, which flows from north to southwest in the northwest corner of the site. This portion of the site will remain undeveloped. Eastern black rails have been reported in other marshes in the region, and Virginia rail (*Rallus limicola*), which utilizes similar, though slightly wetter, habitat to Eastern black rail, was detected in the wetland on site, so it is possible but unlikely that black rails could utilize the minimal amount of emergent marshes within the site.

Conclusions

B.E. assessed the Project site for potential habitat to support Eastern black rails, ULTO, monarch butterflies, and Suckley's cuckoo bumblebees. There was minimal to no habitat present for most of the species listed in the IPaC query. There was minimal suitable marsh habitat (0.31 acre) for Eastern black rail



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available; however, the species is unlikely to occur in such a small marsh. If present, it would only occur within the emergent wetlands of the site, which will not be developed. The Project will likely involve some small wetland impacts to include stream stabilization measures, but the cattail marsh will not be affected.

B.E.'s desktop review and on-site habitat assessment concluded that development of the Project is unlikely to affect any threatened, endangered, proposed, or candidate species, or their respective habitats. As such, it is B.E.'s professional opinion that development of the Project is not reasonably certain to result in take of listed species and requests USFWS' concurrence. Should you disagree with this assessment, please do not hesitate to contact Bristlecone Ecology. Thank you for your attention to this matter.

Sincerely,

Bristlecone Ecology, LLC

Daniel Maynard
Owner/Ecologist



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References

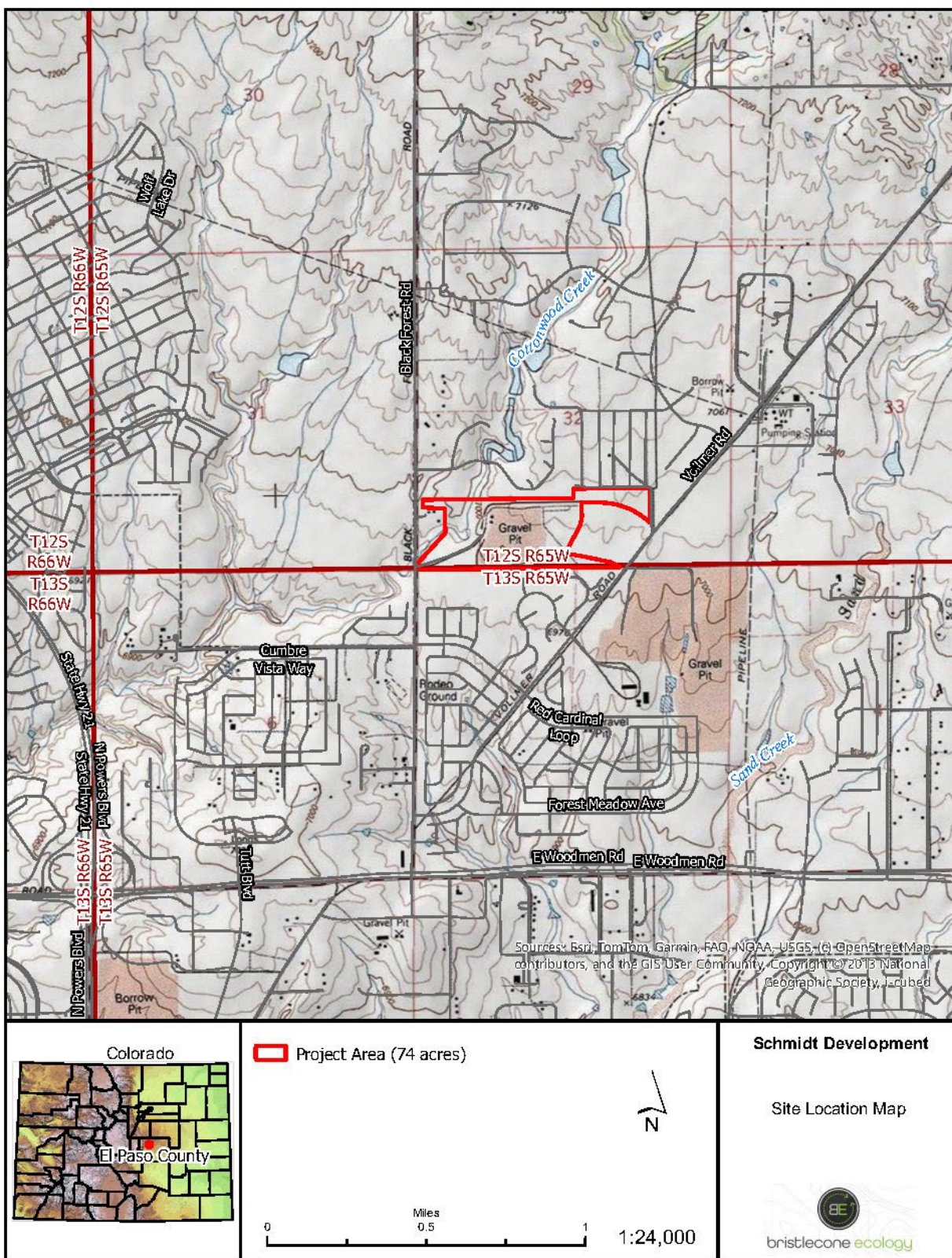
- CPW. 2018. Species Profiles for threatened and endangered species. <https://cpw.state.co.us/threatened-and-endangered-wildlife#2194562455-3312324271> <https://cpw.state.co.us/threatened-and-endangered-wildlife> Fertig, Walter, Rick Black, and Paige Wolken. 2005. Rangewide Status Review of Ute Ladies'-Tresses (*Spiranthes diluvialis*).
- CPW. n.d. "Wildlife species profiles: Assessing habitat quality for priority wildlife species in Colorado wetlands." CPW Digital Collections. Accessed May 25, 2026. https://cnhp.colostate.edu/download/documents/cwic_docs/CPWSpeciesProfiles/CPWProfiles_BlackRail.pdf
- USFWS (United States Fish and Wildlife Service). 2026a. Information for Planning and Conservation Online System. <https://ecos.fws.gov/ipac/>. Accessed May 2026.
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- USFWS. 1992. Interim Survey Requirements for Ute Ladies-tresses' Orchid (*Spiranthes diluvialis*). https://www.fws.gov/sites/default/files/documents/SPDI_interimSurveyRequirements_1992_revised_2017.pdf
- USFWS. 2025. Eastern Black Rail - IPaC - FWS.gov. Generated May 25, 2026. UTC; IPaC v6. <https://ipac.ecosphere.fws.gov/>



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Schmidt Development
El Paso County, Colorado

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ATTACHMENT A:
SITE LOCATION MAP



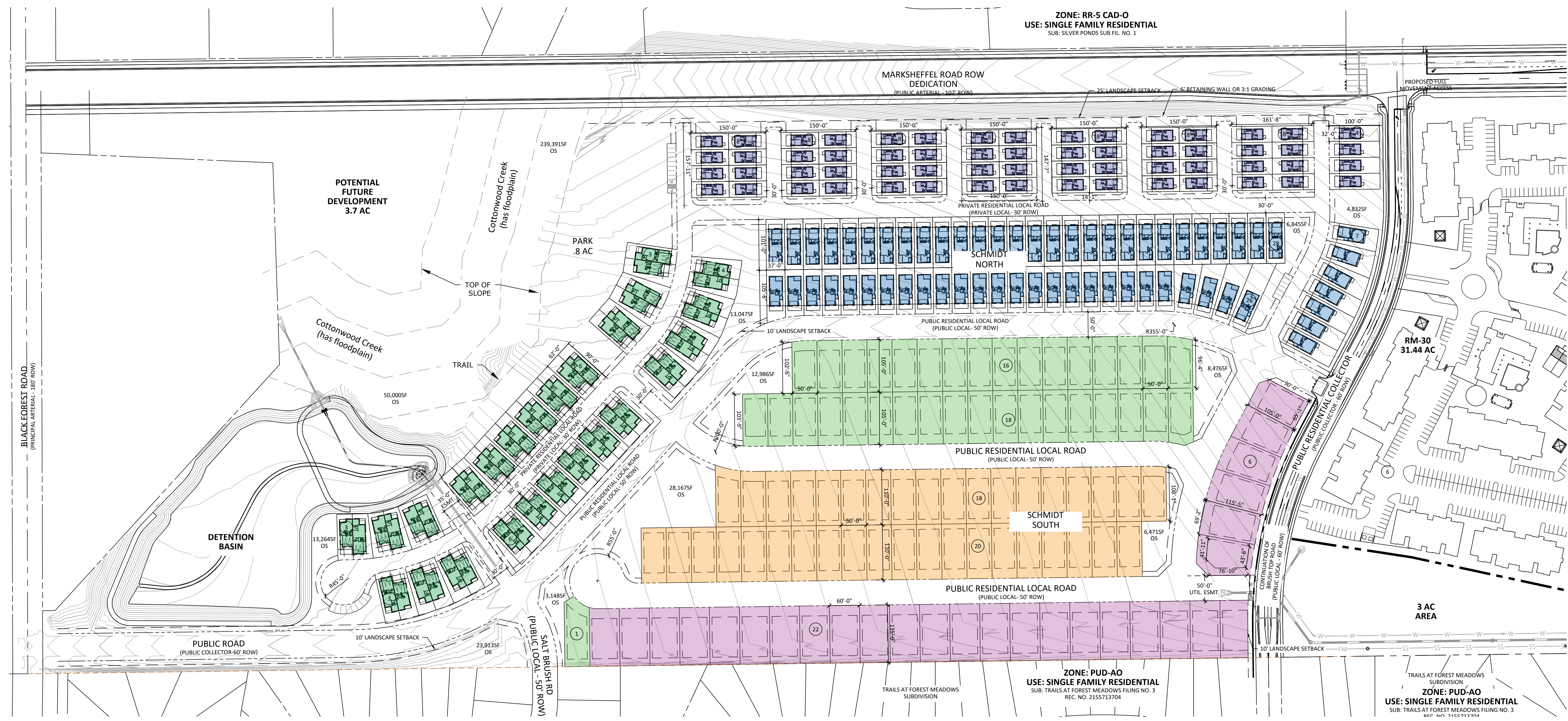
4/21/2026 D:\Data\GIS\Projects\Project Folders\26_006_SchmidtDevelopment\26_006_SchmidtDevelopment\26_006_SchmidtDevelopment.aprx



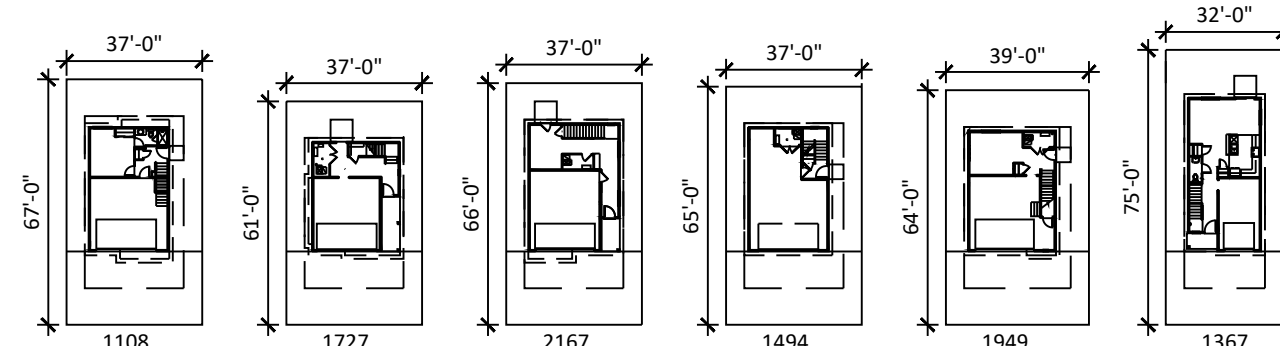
Technical Assistance / Effects Determination Concurrence Request
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May 27, 2026

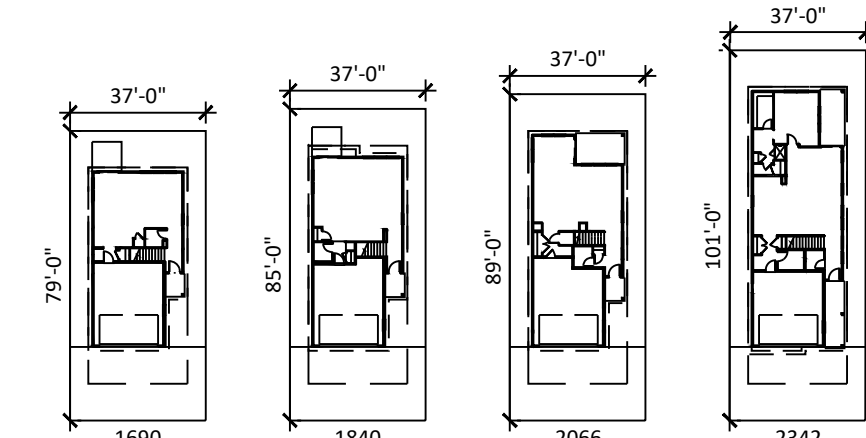
ATTACHMENT B:
PRELIMINARY SITE PLAN



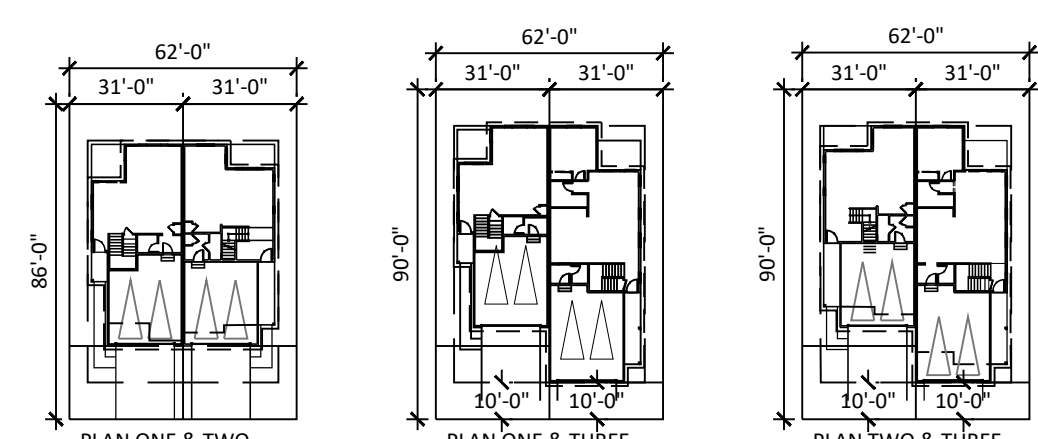
SCHMIDT NORTH LOT TYPICALS



ASCENT SERIES - 37'-39'W

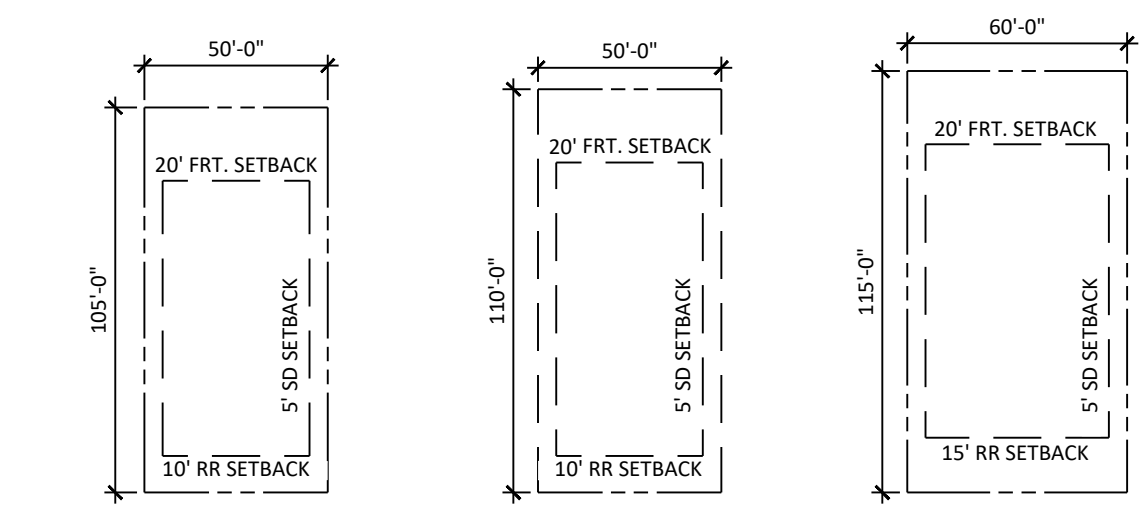


SKYLINE SERIES - 37'W



DUPLEX PLANS

SCHMIDT SOUTH LOT TYPICALS



UNIT COUNT

ASCENT:	60 UNITS
SKYLINE:	61 UNITS
DUPLEX:	50 UNITS
TOTAL UNITS:	171 UNITS
PARKING PROVIDED:	28 SPACES

UNIT COUNT

105' X 50'	35 UNITS
110' X 50'	38 UNITS
115' X 60'	28 UNITS
TOTAL UNITS:	106 UNITS

KEY	
—	CENTERLINE
---	SCHMIDT NORTH BOUNDARY
---	SCHMIDT SOUTH BOUNDARY
---	LOT BOUNDARY
---	ROW

SITE DATA

TOTAL AREA:	58.6 AC
PROPOSED USE:	SCHMIDT NORTH 29.55 AC
PROPOSED DENSITY:	SCHMIDT SOUTH 29.05 AC
PROPOSED OPEN SPACE:	SINGLE-FAMILY RESIDENTIAL
	SCHMIDT NORTH 5.79 DU/AC
	SCHMIDT SOUTH 3.59 DU/AC
	SCHMIDT NORTH: 6.36 AC (21.5%)
	SCHMIDT SOUTH: 2.98 AC (10.2%)



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PLANNER / LANDSCAPE ARCHITECT

IN ASSOCIATION WITH

SCHMIDT PARCEL
SCHEMATIC
LAYOUT

DATE: 04.24.26
PROJECT MGR: A. ODOM
PREPARED BY: T. KNAB

ISSUE INFO		
DATE:	BY:	DESCRIPTION:

SCHEMATIC LAYOUT

1
1 OF 1



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El Paso County, Colorado

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ATTACHMENT C:
OFFICIAL IPAC SPECIES LIST



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Colorado Ecological Services Field Office
Denver Federal Center
P.O. Box 25486
Denver, CO 80225-0486
Phone: (303) 236-4773 Fax: (303) 236-4005



In Reply Refer To:
Project Code: 2026-0094164
Project Name: Schmidt Development

05/25/2026 17:23:58 UTC

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to these species or critical habitats ([Colorado Ecological Services Field Office](#)). Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. We recommend verification be completed by visiting the [IPaC](#) website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the [IPaC](#) system by completing the same process used to receive the enclosed list.

The purpose of the ESA is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the ESA and its implementing regulations ([50 CFR 402](#)), Federal agencies are required to use their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation like a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends Federal agencies also address proposed species and proposed critical habitat within the consultation (see Conferencing below) and consider candidate species. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>.

Projects and activities without a Federal nexus (e.g., without Federal funding, permit, or authorization) should be evaluated for the potential to "take" listed wildlife. Take does not apply to listed plants and to designated critical habitat. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct ([ESA Section 3, Definitions](#)). Harm in the definition of "take" in the ESA means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering ([50 CFR 17.3](#)).

Conferencing: Conferencing for species proposed for Federal listing or for proposed critical habitat is only required if a proposed action is likely to jeopardize the continued existence of a species or will result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10). If an action agency determines that their action would not jeopardize the continued existence of the proposed species and/or would not result in the destruction or adverse modification of proposed critical habitat, the determination should be saved in the agency's project record. Agencies may request a voluntary conference to address adverse effects; however, at this time the Colorado Field Office intends to not conduct voluntary conferences for the species discussed in this cover letter.

For purposes of ESA section 7 consultation, we treat experimental populations (e.g., gray wolf in Colorado) as if they are proposed for listing, except on National Park Service and National Wildlife Refuge system lands, where they are treated as threatened. Evaluations for proposed species are completed under the regulations for conferencing ([50 CFR 402.10](#)).

Gray Wolf: On November 8, 2023, the Service promulgated an ESA section 10(j) (i.e., nonessential experimental population or NEP) rule (10(j) rule) for gray wolf (*Canis lupus*) within the State of Colorado ([88 FR 77014](#)). In the 10(j) rule, the Service determined that the loss of the Colorado NEP would not be likely to appreciably reduce the likelihood of survival of the species in the wild and that the establishment of the NEP would benefit recovery by increasing redundancy and representation. Furthermore, it is unlikely that typical agency actions in Colorado, especially those with temporary impacts to habitat, will result in any adverse effects to the gray wolf. Agencies may consider implementing voluntary conservation measures near active dens and rendezvous sites. See Conferencing above.

Colorado River Fish, Platte River Species, & Depletions: Formal interagency consultation under section 7 of the ESA is required for projects that may lead to depletions of water from any system that is a tributary to the Colorado River. Federal agency actions resulting in water depletions to the Colorado River system may affect the endangered bonytail (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus lucius*), razorback sucker (*Xyrauchen texanus*), and the threatened humpback chub (*Gila cypha*), and their designated critical habitats. Similarly, formal consultation is required for projects that may lead to depletions of water from the Platte River, affecting the endangered pallid sturgeon (*Scaphirhynchus albus*), threatened piping plover (*Charadrius melodus*), threatened western prairie fringed orchid (*Platanthera praeclara*) the endangered whooping crane (*Grus americana*), and the whooping crane's designated critical habitat. Additional information on the Platte River Recovery Implementation Program is available here: <https://www.fws.gov/media/federal-depletions-plan-platte-river-recovery-implementation-program>.

Water depletions include evaporative losses and consumptive use of surface or groundwater within the affected basin, often characterized as diversions minus return flows. Project elements that could be associated with depletions include, but are not limited to: ponds, lakes, and reservoirs (e.g., detention, recreation, irrigation, storage, stock watering, municipal storage, and power generation); drilling, hydraulic fracturing and completion of oil and gas wells; hydrostatic testing of pipelines; water wells; dust abatement; diversion structures; and water treatment facilities. Any actions that may result in water depletions should be identified. An analysis of the water depletion should include: an estimate of the amount and timing of the average annual water use (both historic and new uses) and methods of arriving at such estimates; location of water use or where diversion occurs, as specifically as possible; if and when the water will be returned to the system; and the intended use of the water. Depending on Project details, the Service may have more specific questions regarding the potential consumptive use of the water.

The Service, in accordance with the Upper Colorado River Endangered Fish Recovery Program (<https://coloradoriverrecovery.org/uc/>), adopted a [de minimis policy](#), which states that water-related activities in the Upper Colorado River Basin that result in less than 10 acre-foot per year of depletions in flow have no effect on the Colorado River endangered fish species and their critical habitat, and thus do not require consultation for potential effects on those species and critical habitat. While no section 7 consultation is needed, the Service requests Federal agencies notify the Upper Colorado Fishes Coordinator of depletions between 0.1 and 10 acre-feet per year with the approximate location of the project (e.g., reference to the most proximate surface water or tributary), the water use (e.g., agricultural, oil and gas, energy), and the timing of and depletion amount. Similarly, detention basins designed to detain runoff for less than 72 hours, and temporary withdrawals of water outside of critical habitat (e.g., for hydrostatic pipeline testing) that return all the water to the same drainage basin within 30 days, are considered to have no effect and do not require consultation.

Suckley's Cuckoo Bumble Bee: On December 17, 2024, Suckley's cuckoo bumble bee (*Bombus suckleyi*) (Suckley's) was proposed for listing as an endangered species (89 FR 102074). Suckley's is an obligate social parasite of social bumble bees in the genus *Bombus*. Suckley's cannot successfully reproduce without the availability of suitable host colonies. It is a semi-specialist parasite and confirmed to usurp nests of Western bumble bee (*Bombus*

occidentalis) and Nevada bumble bees (*Bombus nevadensis*) (Service 2024). Based on the best available information, no Suckley's have been observed in Colorado since 2014 despite ongoing surveys. The Species Status Assessment (SSA) shows observations since 2018 occur only in northern latitudes, primarily in Canada ([Service 2024](#)), but the species may persist in high quality upper elevation habitats in western States.

While Suckley's is proposed for listing, there is no prohibition of "take" under Section 9 of the ESA; therefore, projects without a federal nexus, do not need to engage with the Service to exempt take under the ESA. However, we encourage everyone to incorporate conservation measures benefiting pollinators and pollinator habitat into projects. Examples include retaining suitable foraging (diversity and abundance of native floral resources), nesting (suitable host colony above or below ground), and overwintering habitat (loose substrates such as leaf litter, duff, rotting logs); maintaining habitat for host bumble bees by avoiding impacts to abandoned underground holes (rodent burrows); and revegetation efforts that include native seed mixes with a diversity of nectar plants (<https://www.xerces.org/monarchs/monarch-nectar-plant-guides>) to promote an abundance and diversity of native floral resources. Additionally, we recommend supporting and conducting general bumble bee and pollinator surveys. You may also consider tools that offer regulatory assurances should Suckley's become a listed species. For example, on January 22, 2026, the Service [Proposed a Nationwide Conservation Benefit Agreement for Bumble Bees](#).

At this time, the Colorado Field Office will not be participating in voluntary conferences for the species. Nationally, the Service is developing range-wide consultation guidance and streamlining tools for the Suckley's, and we will share these as they become available.

Monarch Butterfly: The monarch butterfly (*Danaus plexippus*) was proposed threatened under the Endangered Species Act (ESA) on December 12, 2024 (89 FR 100662). The proposed listing rule, including a special 4(d) rule, and proposed critical habitat in the California winter range, are available on the species webpage: <https://ecos.fws.gov/ecp/species/9743> and at <https://www.fws.gov/species/monarch-danaus-plexippus>. Two monarch butterfly populations occupy North America – the eastern population which is east of the Rocky Mountains, and the western population which is west of the Rocky Mountains. The eastern population supports well over 90% of the monarchs in North America. Colorado supports both populations. In Colorado, monarch butterfly habitat consists of grasslands, prairies, riparian areas, and urban gardens that support milkweed and a variety of nectar plants. We recommend agencies include proactive conservation measures into their projects such as restoring disturbed areas with local seed mixes with a diversity of nectar plants (<http://www.xerces.org/monarch-nectar-plants/>) and evaluating the full impact of their action (including conservation measures) when considering whether their project will jeopardize the species.

While the monarch butterfly is proposed for listing, there is no prohibition of "take" under Section 9 of the ESA; therefore, projects without a federal nexus, do not need to engage with the Service to exempt take under the ESA. However, we encourage everyone to include conservation measures to benefit monarch butterflies and other pollinators into projects. You may also consider tools that offer regulatory assurances should the monarch become a listed species such

as Conservation Benefit Agreements (CBAs), or you may qualify to enroll into the [Candidate Conservation Agreement with Assurances for the Monarch Butterfly](#).

At this time, the Colorado Field Office will not be participating in voluntary conferences for the species. It is unlikely that typical localized actions in Colorado, especially those with temporary impacts in migratory or breeding habitat, will jeopardize the species. Nationally, the Service continues to develop range-wide consultation guidance and streamlining tools for the Monarch butterfly and other pollinators.

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the ESA, there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see <https://www.fws.gov/program/migratory-bird-permit/what-we-do>.

It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: Responsibilities of Federal Agencies to Protect Migratory Birds, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the ESA. Please include the Consultation Code found in the header of this letter with any request for consultation or correspondence about your project that you submit to our office at ColoradoES@fws.gov.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Bald & Golden Eagles
- Migratory Birds

- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Colorado Ecological Services Field Office

Denver Federal Center

P.O. Box 25486

Denver, CO 80225-0486

(303) 236-4773

PROJECT SUMMARY

Project Code: 2026-0094164

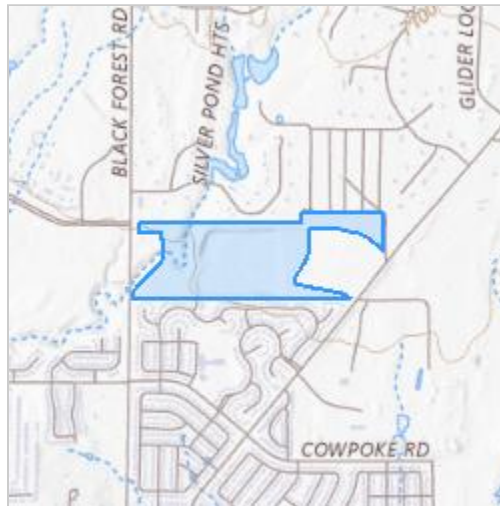
Project Name: Schmidt Development

Project Type: Residential Construction

Project Description: The Project will involve the development of approximately 74 acres of land within El Paso County Parcels No. 5200000570 and No. 5200000577. The Project area is located north of the intersection between Black Forest Road and Vollmer Road; it is bounded on all sides by scattered rural and suburban residential development (Figure 1: Site Location Map). The Project will consist of single-family residential lots, local roads, utilities, and other associated facilities and infrastructure. The site is located in the southeast corner of Section 32 in Township 12S, Range 65W, and can be found on the U.S. Geological Survey's (USGS) Falcon NW 7.5-minute quadrangle (USGS 2020).

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.956718699999996,-104.69503466456189,14z>



Counties: El Paso County, Colorado

ENDANGERED SPECIES ACT SPECIES

There is a total of 5 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

BIRDS

NAME	STATUS
Eastern Black Rail <i>Laterallus jamaicensis jamaicensis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10477 General project design guidelines: https://ipac.ecosphere.fws.gov/project/VEVGJHB4HVCDPGIKWOJ4S7XU7I/documents/generated/10809.pdf	Threatened
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions: Project includes water-related activities and/or use in the N. Platte, S. Platte, and Laramie River Basins which may affect listed species in Nebraska. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> There is proposed critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/9743 General project design guidelines: https://ipac.ecosphere.fws.gov/project/VEVGJHB4HVCDPGIKWOJ4S7XU7I/documents/generated/10810.pdf	Proposed Threatened
Suckley's Cuckoo Bumble Bee <i>Bombus suckleyi</i> Population: No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10885	Proposed Endangered

FLOWERING PLANTS

NAME	STATUS
Ute Ladies'-tresses <i>Spiranthes diluvialis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2159 General project design guidelines: https://ipac.ecosphere.fws.gov/project/VEVGJHB4HVCDPGIKWOJ4S7XU7I/documents/generated/10712.pdf	Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

BALD & GOLDEN EAGLES

Bald and Golden Eagles are protected under the Bald and Golden Eagle Protection Act ² and the Migratory Bird Treaty Act (MBTA) ¹. Any person or organization who plans or conducts activities that may result in impacts to Bald or Golden Eagles, or their habitats, should follow appropriate regulations and consider implementing appropriate avoidance and minimization measures, as described in the various links on this page.

-
1. The [Bald and Golden Eagle Protection Act](#) of 1940.
 2. The [Migratory Birds Treaty Act](#) of 1918.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

There are Bald Eagles and/or Golden Eagles in your [project](#) area.

Measures for Proactively Minimizing Eagle Impacts

For information on how to best avoid and minimize disturbance to nesting bald eagles, please review the [National Bald Eagle Management Guidelines](#). You may employ the timing and activity-specific distance recommendations in this document when designing your project/activity to avoid and minimize eagle impacts. For bald eagle information specific to Alaska, please refer to [Bald Eagle Nesting and Sensitivity to Human Activity](#).

The FWS does not currently have guidelines for avoiding and minimizing disturbance to nesting Golden Eagles. For site-specific recommendations regarding nesting Golden Eagles, please consult with the appropriate Regional [Migratory Bird Office](#) or [Ecological Services Field Office](#).

If disturbance or take of eagles cannot be avoided, an [incidental take permit](#) may be available to authorize any take that results from, but is not the purpose of, an otherwise lawful activity. For assistance making this determination for Bald Eagles, visit the [Do I Need A Permit Tool](#). For assistance making this determination for golden eagles, please consult with the appropriate Regional [Migratory Bird Office](#) or [Ecological Services Field Office](#).

Ensure Your Eagle List is Accurate and Complete

If your project area is in a poorly surveyed area in IPaC, your list may not be complete and you may need to rely on other resources to determine what species may be present (e.g. your local FWS field office, state surveys, your own surveys). Please review the [Supplemental Information on Migratory Birds and Eagles](#), to help you properly interpret the report for your specified location, including determining if there is sufficient data to ensure your list is accurate.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to bald or golden eagles on your list, see the "Probability of Presence Summary" below to see when these bald or golden eagles are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Oct 15 to Jul 31
Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1680	Breeds Dec 1 to Aug 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read ["Supplemental Information on Migratory Birds and Eagles"](#), specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

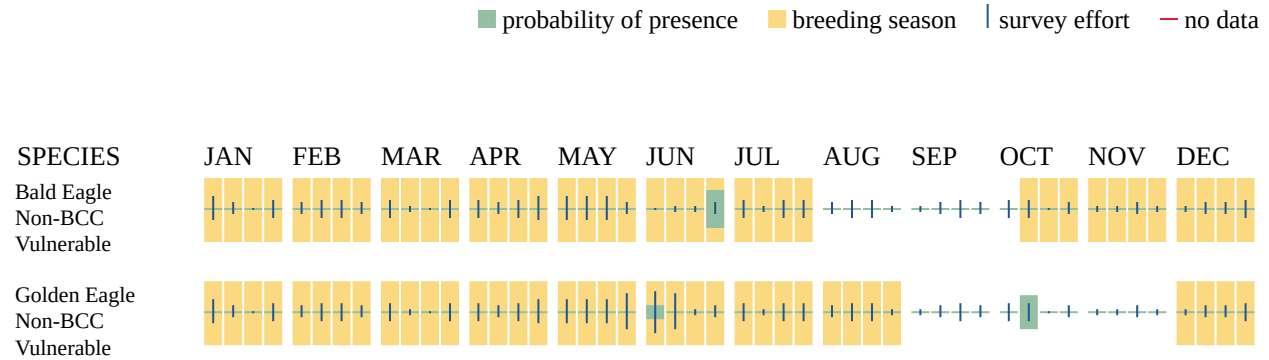
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

A week is marked as having no data if there were no survey events for that week.



Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide avoidance and minimization measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

MIGRATORY BIRDS

The Migratory Bird Treaty Act (MBTA) ¹ prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service (Service).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the "Probability of Presence Summary" below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Oct 15 to Jul 31
Broad-tailed Hummingbird <i>Selasphorus platycercus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/11935	Breeds May 25 to Aug 21
Ferruginous Hawk <i>Buteo regalis</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/6038	Breeds Mar 15 to Aug 15
Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1680	Breeds Dec 1 to Aug 31
Grasshopper Sparrow <i>Ammodramus savannarum perpallidus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/8329	Breeds Jun 1 to Aug 20
Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9679	Breeds elsewhere
Lewis's Woodpecker <i>Melanerpes lewis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9408	Breeds Apr 20 to Sep 30
Northern Harrier <i>Circus hudsonius</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/8350	Breeds Apr 1 to Sep 15
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9398	Breeds May 10 to Sep 10

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read ["Supplemental Information on Migratory Birds and Eagles"](#), specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

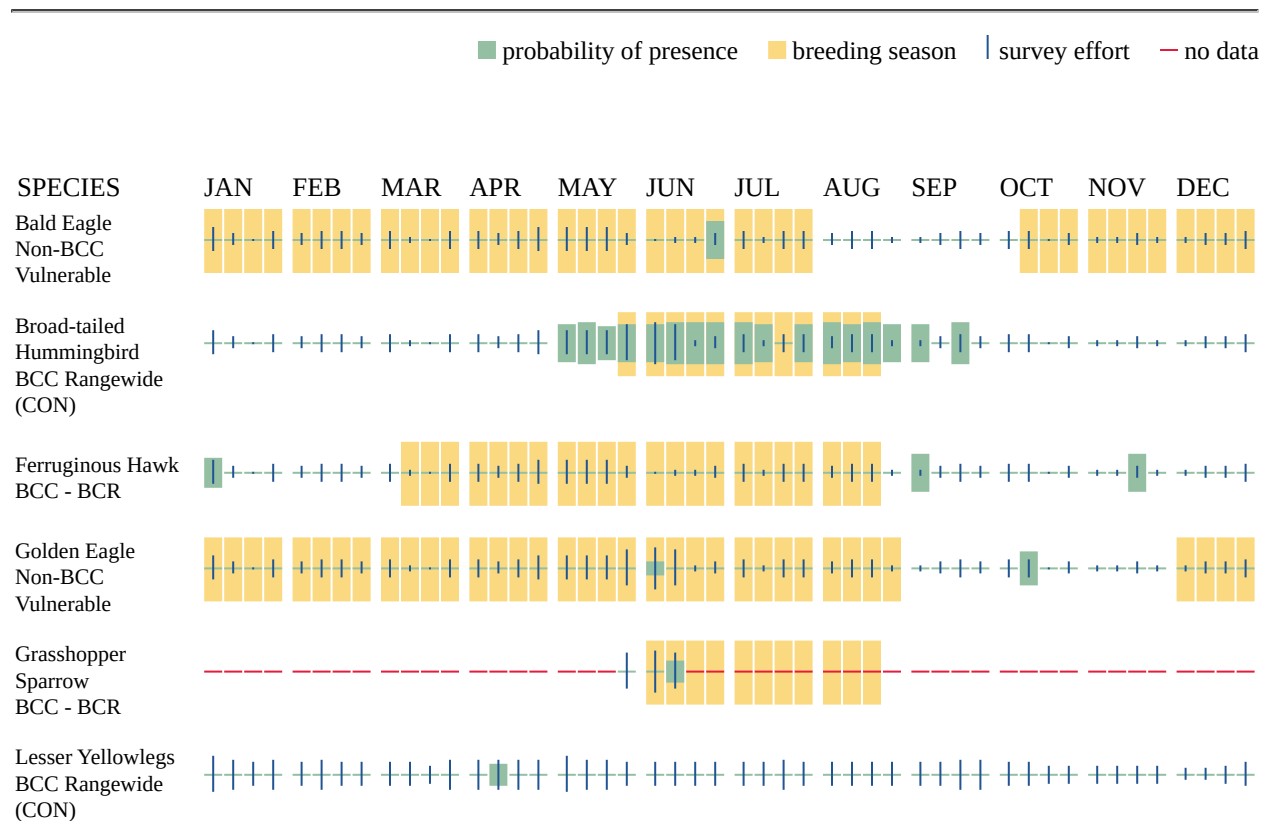
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

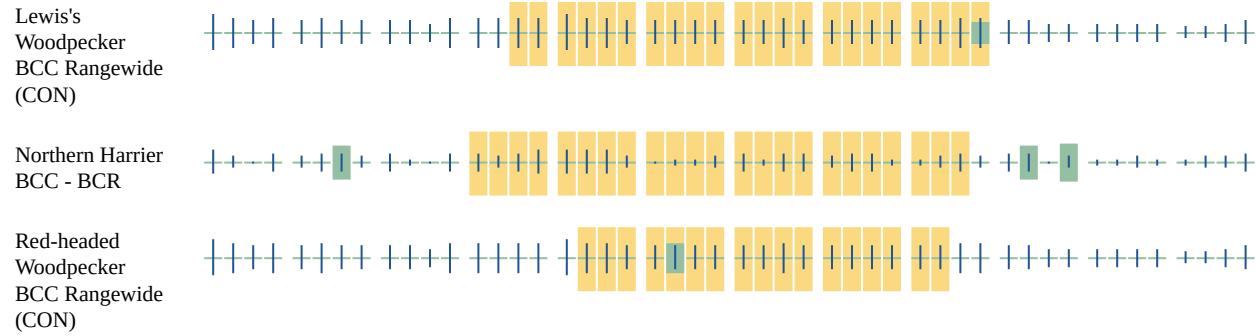
Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

A week is marked as having no data if there were no survey events for that week.





Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide avoidance and minimization measures for birds
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

RIVERINE

- R4SBA

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Emily DeAlto
Address: 2023 W Scott Place
City: Denver
State: CO
Zip: 80211
Email: edealto@bristleconeecology.com
Phone: 9732558335



Technical Assistance / Effects Determination Concurrence Request
Schmidt Development
El Paso County, Colorado

May 27, 2026

ATTACHMENT E:
PHOTOGRAPHIC LOG

May 27, 2026



Photo 1 – View facing north of the palustrine aquatic bed (PAB) and palustrine emergent (PEM) portions of the wetlands associated with Cottonwood Creek. This portion of the wetland was open water during the site visit and was surrounded by cattails (emergent marsh) and willows (shrub-scrub wetlands). The cattail marsh may provide very limited habitat for Eastern black rail. A Virginia rail was heard in the wetlands during the site survey. The remainder of the site, outside of the marshes, is unsuitable for this species.



Photo 2 – View of the shrub-scrub wetland type that dominated the majority of the wetlands associated with Cottonwood Creek. This wetland type is not suitable for Eastern black rail.

May 27, 2026



Photo 3 – View facing northwest of the westernmost wetlands associated with Cottonwood Creek. Typical rolling grasslands in the areas that have not been graded can also be seen in the foreground and background of the photo. Some herbaceous wetlands that may provide very limited suitable habitat for Eastern black rail can be seen in the wide channel of the creek. There was water flowing through the creek during the site survey.