



COLORADO

Parks and Wildlife

Department of Natural Resources

Area 4/ Fort Collins Office
317 W Prospect Road
Fort Collins, CO 80526
P 970.472.4300 | F 970.472.4458

March 28, 2024

Brock F. Bowles
1313 Sherman Street
Room 215
Denver, CO 80203

RE: Ogilvy River Farm Pit, File No. M-2024-006

Dear Brock,

Thank you for the opportunity for Colorado Parks and Wildlife (CPW) to comment on the proposed surface mining and processing operation on approximately 71.91 acres of which 45.06 will be mined located at township 5 North, Range 64 West, S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 5 and the NE $\frac{1}{2}$ of the NE $\frac{1}{4}$ of section 8, 6th P.M.

The mission of CPW is to perpetuate the wildlife resources of the state, to provide a quality State parks system, and to provide enjoyable and sustainable outdoor recreation opportunities that educate and inspire current and future generations to serve as active stewards of Colorado's natural resources. CPW has a statutory responsibility to manage all wildlife species in Colorado, and to promote a variety of recreational opportunities throughout Colorado. One way we achieve this goal is by responding to referral comment requests, as is the case for this project.

CPW has reviewed the proposal and has the following comments/concerns:

Impacts to the South Platte River

Low-elevation Riparian Woodlands, such as the South Platte River, are crucial for a wide variety of species throughout the state. During harsh winters, the South Platte River may be the only source of water that is open and available for waterfowl species to rest and feed. This results in large numbers of waterfowl congregating on small stretches of river in the evening and until the late morning. These riparian corridors often act as "highways" for wildlife. The abundant water in these areas increases the availability of vegetation, cover, forage, and macro-invertebrates; all of which are extremely important to waterfowl. These highly abundant resources are crucial at all times of the year, and their concentration within riparian corridors coincides with high biological diversity and utilization by species. The South Platte River is also a crucial habitat for many large and small mammals, amphibians, songbirds, and raptors by providing year round shelter, abundant forage, and access to water and escape habitat.



Jeff Davis, Director, Colorado Parks and Wildlife

Parks and Wildlife Commission: Dallas May, Chair • Richard Reading, Vice-Chair • Karen Bailey, Secretary • Jessica Beaulieu
Marie Haskett • Jack Murphy • Gabriel Otero • Duke Phillips, IV • James Jay Tutchton • Eden Vardy

High Priority Habitat (HPH)

The proposed location overlaps with wildlife habitat for numerous species and is located entirely within HPH, specifically in portions of No Surface Occupancy Habitat as described below:

Mule deer severe winter concentration and winter concentration areas

CPW has identified Mule deer severe winter concentration and Mule deer winter concentration areas within the State of Colorado's 2015 State Wildlife Action Plan. These areas provide crucial wintering habitat during both severe and mild winters by providing ideal forage, vegetation, and topographic features for both species. Regardless of weather patterns, winter is the most stressful period for ungulates due to the challenges winter poses for forage availability. The entirety of the project is slated for development within these HPH layers. Therefore, CPW recommends not constructing during the winter season (January 1 through March 31), if this is not feasible, CPW recommends that the applicant consult with CPW regarding the next steps to minimize impacts to wildlife in this area.

Aquatic Native Species Conservation Waters

CPW has identified Aquatic Native Species Conservation Waters within the State of Colorado's 2015 State Wildlife Action Plan. These streams provide critical habitat for native aquatic wildlife, such as amphibians and fish, while also providing crucial habitat for mammals, birds, and reptiles that utilize the habitat. There are sensitive aquatic native species (fish and amphibians) located within the South Platte River. CPW recommends no surface occupancy and no ground disturbance (year-round) within 500 feet of the ordinary high water mark of the South Platte River and to implement appropriate storm water best management practices (BMPs).

Bald Eagle Active Nest Site Half Mile

CPW has mapped bald eagle nesting habitats located in and near this proposed development. Therefore, CPW recommends that the operator survey for nesting Bald eagles if initial site disturbance will occur during their nesting season (October 15 to July 31). Recommendations for bald eagle nest buffers and timing stipulations can be found here:

<https://cpw.state.co.us/Documents/WildlifeSpecies/LivingWithWildlife/RaptorBufferGuidelines2008.pdf>

CPW makes the following additional recommendations to minimize possible negative impacts to surface water and groundwater, based on CPW documented wildlife habitat:

1. We recommend construction of any fencing be completed in accordance with CPW recommended standards as outlined in the "[Fencing With Wildlife in Mind](https://cpw.state.co.us/Documents/LandWater/PrivateLandPrograms/FencingWithWildlifeInMind.pdf)" document which can be found at this link:
<https://cpw.state.co.us/Documents/LandWater/PrivateLandPrograms/FencingWithWildlifeInMind.pdf>
2. We discourage the removal of native vegetation within the 500-foot buffer zone of the South Platte River to prevent erosion and ensure bank stability.



3. We recommend planting native vegetation along the river corridor to help with bank stability and erosion. As well as planting native vegetation for any and all vegetation used for the concealment of the plant (as described in the "visual impacts" portion of the proposal).
4. We recommend the implementation of a noxious weed management and control plans.
5. Any work done in-stream should be performed using BMPs to avoid the introduction of aquatic nuisance species. All equipment should be decontaminated prior to instream work and post-stream work to prevent the spread of aquatic nuisance species.
6. CPW recommends constructing escape ramps and exits from the mine to prevent wildlife from becoming trapped within the project area.
7. CPW also highly recommends pre-construction surveys to assess for raptor species, nesting activity before construction begins, and each consecutive nesting season after the mine becomes active. Projects, such as mining, can attract ground-nesting birds such as Killdeer. Therefore, care should be taken to identify these nests and protect them from damage. Requests for take permits may be requested from the United States Fish and Wildlife Service. Incidental take without a permit may result in federal prosecution.

As documented above, this location is in close proximity to an area of high ecological value to a variety of species. These areas are continually being developed along the Front Range impacting these important and, in some cases, protected species. CPW realizes development will happen in response to increasing population and shifting demands in commodities and we hope this development can be designed and constructed responsibly and reasonably.

If the timing or scope of this project changes and/or if you have any questions, please contact Jackson Davis at 970-342-0461 or jackson.davis@state.co.us

Sincerely,



Jason Surface
Area Wildlife Manager- Area 4

*Cc: Jackson Davis- District Wildlife Manager
Lexi Hamous- NE Region Land Use Coordinator
Matt Haworth- Platte River Basin Native Species Biologist
Mark Sandersen- Area Aquatic Biologist
Joe Halseth- Area Terrestrial Biologist*

