WANER
CONSTRUCTION COMPANY, INC.

August 3, 2022

Carson Byerhof
Planner 1
Town of Parker
20120 E Mainstreet
Parker, CO 80138

RE: Parker Pointe Prairie Dog Relocation Efforts

Dear Mr. Byerhof:

Waner Construction Company, Inc (WCCI) is currently conducting a good faith effort per the Town of Parker's municipal code to relocate the prairie dog colony located at the SE corner of the intersection of S Parker and Stroh Road. The results of the effort are below.

WCCI has contracted Tindakan to relocate the prairie dogs to a U.S. Fish and Wildlife conservation area. The release site is known a s the U.S. Army Pueblo Chemical Depot located in Pueblo, Colorado. Tindakan will us wild trapping to capture the animals before relocation. If wild trapping should prove to ineffective may flood the burrows to flush the animals out. Because the timing will be critical for this project Tindakan will be scheduled to complete their relocation immediately prior to the start of grading work. This will prevent wildlife from adjacent properties resettling the property once the relocation has been completed.

Additionally, we have had a qualified biologist (ERO Resources) exam the site and confirm that there are currently no Burrowing Owls occupying the site.

If you have any questions regarding this good-faith effort, please feel free to call me at (720) 344-5463.

Sincerely
Waner Construction Company, Inc

David Beaudoin
Project Engineer

PARKER
COLORADO

CERTIFICATION OF COMPLIANCE
MUNICIPAL CODE SECTION 13.10.250 PRAIRIE DOG MANAGEMENT

Applicant:
eTRAKiT Project No.:
Property Legal Description:

I hereby certify that the management of prairie dogs on the above referenced property, in association with the above referenced case, has been done in compliance with *Section 13.10.250 Prairie Dog Management* of the *Parker Municipal Code* in the following manner (check one):

☐ Prairie Dogs are not or were not present on this site at the time of application for a demolition permit, grading permit/plan, sketch/preliminary plan, minor development plat, replat, preliminary site plan or site plan.;

☐ If Prairie Dogs are or were present on this site at the time of application for a demolition permit, grading permit/plan, sketch/preliminary plan, minor development plat, replat, preliminary site plan or site plan. The applicant shall indicate whether they formed a partnership or attempted to form a partnership with a nonprofit conservation group or public interest group to relocate the prairie dogs as described below:

☒ A partnership was formed with a nonprofit conservation group or public interest group to relocate the prairie dogs, the relocation occurred on 09-08-2022 to a receiving site located at Pueblo Chemical Depot and such relocation occurred prior to April 1 or after June 1 (attach letter from organization confirming relocation); or

☐ A good faith effort to relocate the prairie dogs was made and relocation was infeasible or prohibited and therefore prairie dogs were exterminated in a humane manner by use of non-toxic materials such as carbon monoxide or carbon dioxide by a professional exterminator as required in *Section 13.10.250 Prairie Dog Management* of the *Parker Municipal Code*. For purposes of this Section, humane extermination shall include the use of products that (1) are nontoxic (such as carbon dioxide and carbon monoxide); (2) eliminate secondary poisoning; and (3) eliminate impacts to non-target species.
(Attach letter/invoice from exterminator with date(s) and application type).

Presence of Endangered or Threatened Species: Humane extermination shall not occur when endangered or threatened species such as the Western Burrowing Owl or Black-Footed Ferret are present on a site until an assessment is completed and such species are protected or relocated in accordance with the requirements of the U.S. Fish and Wildlife Service.

Signature

David Beaudoin
Print Name/Title

Waner Construction Company, Inc.
Company

8950 Barrons Blvd. Suite 103

Highlands Ranch, CO 80129
Address

720-344-5463
Phone Number

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

Subscribed and sworn to before me this 3 day of August, 20 22.

My commission expires: 10/18/2025

(SEAL)

Notary Public

ZACHARY RODGERS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174043390
MY COMMISSION EXPIRES OCTOBER 18, 2025

ERO Resources Corp.

March 25, 2022

To: Daniel Hatcher, Waner Construction Company (Waner Construction)

From: Ronald Beane, ERO Resources Corporation (ERO)

RE: Parker Pointe Development – 2022 Migratory Bird Nest and Prairie Dog Survey

Waner Construction Company (Waner Construction) is constructing a commercial development in the Town of Parker/Douglas County, Colorado (Figure 1; project area). As part of pre-construction surveys for the project, Waner Construction requested that ERO complete a survey for active or inactive migratory bird nests in or near the project area that may affect construction (Figure 2; existing conditions). ERO conducted a nest survey on March 19, 2022 (2022 survey). During the 2022 survey, ERO identified did not identify any active migratory bird nests. A red-tailed hawk (*Buteo jamaicensis*) nest identified in 2019 no longer exists on the Project area and no nests or adult red-tailed hawks were observed during the survey. ERO also counted active prairie dog (*Cynomys ludovicianus*) burrows on the Project area. More detail on these surveys is provided below.

Raptor and Migratory Bird Nests

Background

The Migratory Bird Treaty Act (MBTA) protects raptors and other migratory birds. Unless permitted by regulations, the MBTA provides that "it is unlawful to pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not." In Colorado, all birds except for the European starling (*Sturnus vulgaris*), house sparrow (*Passer domesticus*), and rock dove (pigeon - *Columba livia*) are protected under the MBTA. The Eastern Colorado Field Office of the Service and Colorado Department of Transportation (2011) have identified the primary nesting season for migratory birds in eastern Colorado as occurring between April 1 and mid to late August. However, some birds, such as the red-tailed hawk and great horned owl, can nest as early as February or March

A Nest Depredation Permit, issued by the U.S. Fish and Wildlife Service, is needed to remove, disturb, or destroy an occupied nest. Because raptors may be sensitive to human disturbances near their nests, resulting in abandonment of their eggs or fledglings, Colorado Parks and Wildlife (CPW) has developed recommended buffer zones and seasonal restrictions to avoid causing raptors to abandon their nests (CPW 2020). Additionally, the Bald and Golden Eagle Protection Act (BGEPA) prohibits the take of any eagle nest, whether active or inactive. However, after several years of inactivity, nests that are not maintained by

Denver
1842 Clarkson St.
Denver, CO 80218
303.830.1188

Durango
1015 ½ Main Avenue
Durango, CO 81301
970.422.2136

Hotchkiss
P.O. Box 932
161 South 2nd St.
Hotchkiss, CO 81419
970.872.3020

Idaho
4001 East Main Street

Constultants in
Natural Resources
and the Environment

eagles may eventually disintegrate into a pile of sticks and debris that would not be protected under the BGEPA.

The active nesting season and buffer zones for each species that has the potential to occur near the project area are shown in Table 1.

Table 1. Nest buffer zones and active breeding season for raptors occurring or potentially occurring in the project area.

Species	Buffer Zone	Active Breeding Season
Bald eagle (*Haliaeetus leucocephalus*)	½ mile	December 15 to July 31
Red-tailed hawk	⅓ mile	February 15 to July 15
Swainson's hawk (*Buteo swainsoni*)	¼ mile	April 1 to July 15
Great horned owl (*Bubo virginianus*)	100 to 440 feet	February 1 – July 31

Source: CPW 2020.

Methods

The survey area included the project area, plus a ½-mile buffer for review of potential raptor nests. Before the 2022 survey, ERO reviewed the 2021 CPW raptor database and previous ERO raptor surveys to determine known locations of raptor nests near the project area. All trees and shrubs on the project area was thoroughly searched for stick nests or tree cavities that could support breeding hawks, owls, or other migratory birds(Figure 2). Trees within ½ mile of the project area were scanned for potential raptor nests using a high power spotting scope. The 2022 survey was conducted in early spring, prior to leafed out, which makes it easier to locate and map existing nests.

Survey Results

During the 2022 survey, no active migratory bird nest were observed, including active or inactive nests for hawks or tree-nesting owls. There are several magpie nests (large round nest made of jumbled twigs) scattered in the smaller trees on the property. These are all currently inactive, but some are likely to become active (eggs in the nest) in mid-April to early May.

Recommendations

Although no active migratory bird nests were found on the project area, ERO recommends removing all trees and shrubs slated for removal as soon as possible to preclude nesting by any raptors. The active nesting season most hawks and owls in Colorado is generally February 15 through July 31 (CPW 2020). Should a raptor move into the project area and

begin nesting after construction has begun, then typically CPW considers this individual nesting pair as tolerant to the construction disturbance.

Similarly for songbirds and other protected migratory birds. No active nests currently occur on the project area, but both tree and ground nesting birds will likely start nesting on the project areas early as April 1. ERO recommends removing all trees and shrubs slated for removal as soon as possible to preclude nesting by migratory birds. If unable to remove trees and shrubs prior to April 1, ERO recommends conducting pre-construction clearance surveys prior to grading.

Prairie Dog Burrow Count

Background

The project area contains a black-tailed prairie dog colony, and numerous active burrows occur in the northern portion of the project area (Figure 2). If prairie dog removal becomes necessary, CPW recommends removing them in a humane manner before any earthwork or construction takes place. Burrowing owls, a federally protected migratory bird and state threatened species, can nest in abandoned burrows within the prairie dog colony.

Survey Methods and Results

During the 2022 survey, Ron Beane from ERO also conducted a burrow by burrow count of the active prairie dog burrows. The count was conducted two days after a snowfall event and during a warm afternoon (temperature greater than 60 degrees) when prairie dogs would be motivated to emerge from the burrows. Based on these site condition, active prairie dog burrows (visible mounds with some tracks or other evidence of use) were easily visible. A total of 263 burrows were counted within the colony that extends from the project area and onto the adjacent property to the east. A few of these may be in the Parker Road ROW and not actually on the property, but are probably still a concern for the project. There are probably 20 or more inactive burrows that were still covered in snow.

No burrowing owl surveys were conducted.

Recommendations

Prairie dogs should be humanely removed from the project area prior to grading. Burrowing owls could be impacted by the project if work would occur within the CPW-recommended ⅛-mile (660-foot) buffer of any prairie dog burrows (CPW 2020). If work would occur within the recommended buffer of any prairie dog burrow during the breeding season (March 15 through October 31), a burrowing owl survey should be conducted. CPW recommend burrowing owl surveys consist of three replicate surveys conducted about seven days apart. If owls are present in the project area, activities should be restricted within 660 feet of nest burrows until the owls have migrated from the site, which can be determined through monitoring.

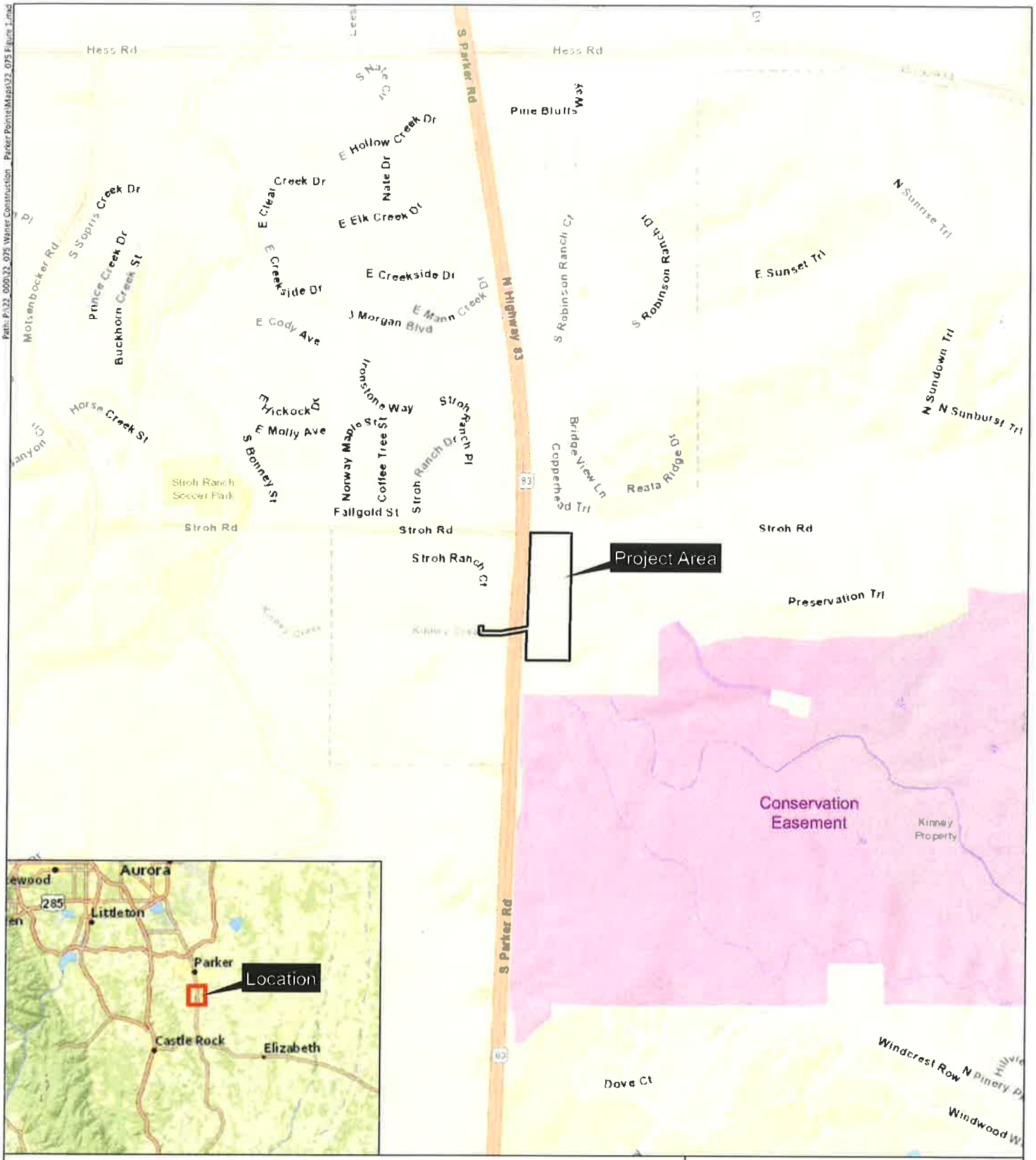
References

Colorado Department of Transportation. 2011. "Section 240, Protection of Migratory Birds." https://www.codot.gov/programs/environmental/wildlife/guidelines/BirdspecCDOTbio.pdf/view.

Colorado Parks and Wildlife (CPW). 2020. Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors. June.

Attachments: Figures 1 and 2

DRAFT



Parker Pointe Development, Parker, Colorado

Section 3, T7S, R66W; 6th PM

UTM NAD 83: Zone 13N; 520898mE, 4369674mN

Longitude 104.757023°W, Latitude 39.476408°N

USGS Castle Rock North, CO Quadrangle

Douglas County, Colorado

0 750 1,500 Feet

N

Figure 1
Vicinity Map

Prepared for: Waner Construction
File: 22_075 Figure 1.mxd (GS)
March 25, 2022

ERO Resources Corp.

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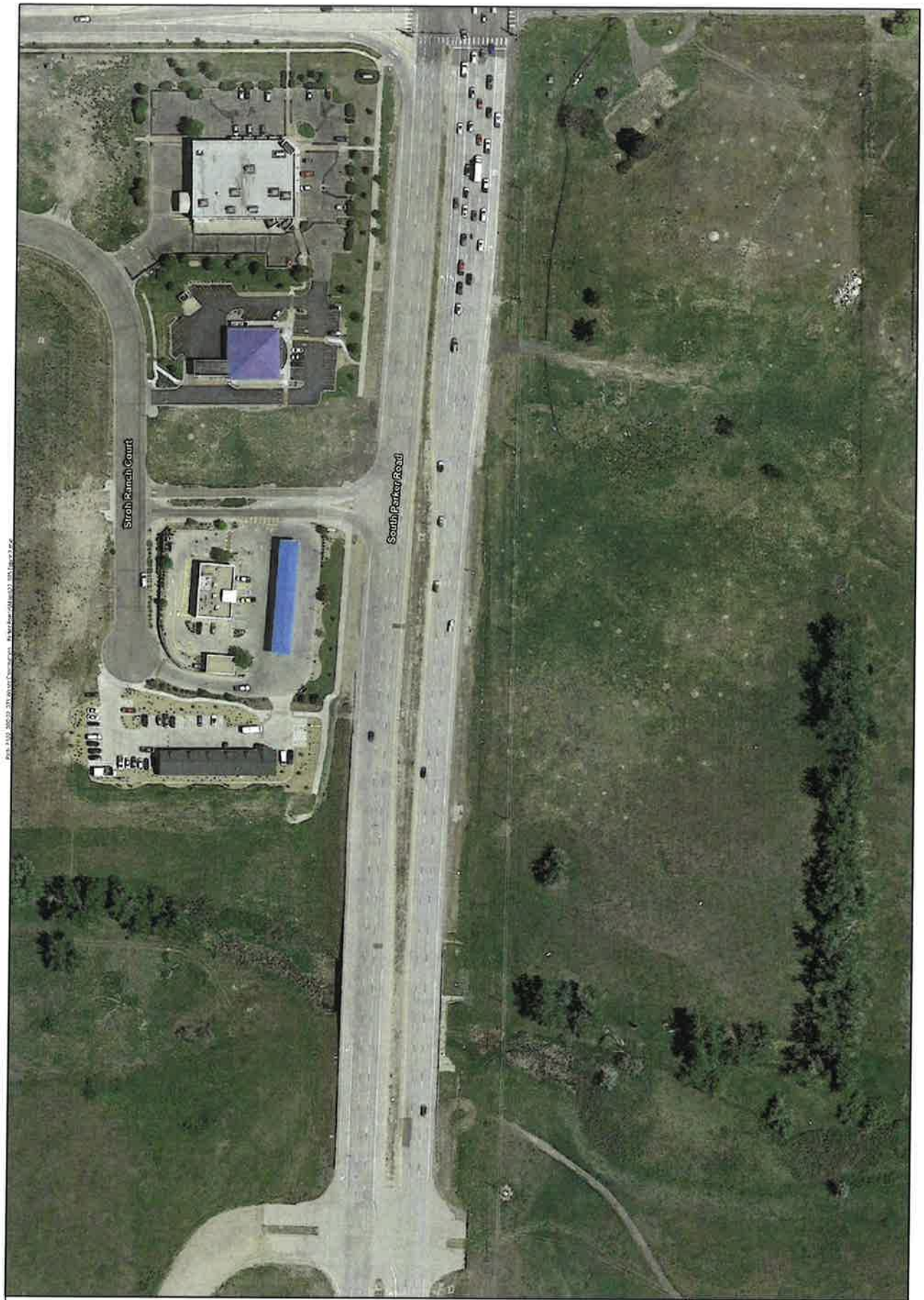

Parker Pointe Development, Parker, Colorado

Image Source: Google Earth©, June 10, 2021

0 60 120 Feet

N

Figure 2
Existing Conditions

Prepared for: Waner Construction
File: 22_075 Figure 2.mxd (GS)
March 25, 2022

ERO

Proposal

Overview

Tindakan (Contractor) is a Colorado based, IRS registered nonprofit and entity in good standing with the State of Colorado and proposes to humanely remove prairie dogs from a property located northeast of the Stroh Rd. and Parker Rd. quadrant owned by NAME OF COMPANY (Company).

Prairie dog population estimates were observed on 27 July 2022 to occupy roughly 4.5 to 7 acres where some populations are more concentrated and others more dispersed within the property. Estimates also included prior information provided by ERO. It is estimated that given this time of year, 113 to 175 prairie dog may occupy this area.

The contractor has extensive experience in the humane capture (see Work Expected below) of black-tailed prairie dogs and has a unique opportunity to release prairie dogs identified as a conservation area owned and operated by several partners (USFWS and Chemical Depot), in Pueblo Colorado. In many cases, receiving areas for prairie dogs are unavailable; however in this case, these partners wish to build an extensive preserve of prairie dogs.

Colorado Parks and Wildlife will still require a permitting process which requires the appropriate landowner/representative to sign off granting permission to enter the property for the purpose of removing prairie dogs and humane transfer to the Pueblo Colorado release site. The state permit also requires that each prairie dog burrow be dusted with a general use pesticide called DeltaDust, as a flea abatement measure.

Work Expected:

Contractor shall process the permit as required by Colorado Parks and Wildlife.

Prairie dog families will be identified with a numbered wooden stake that will be used as bait stations for traps.

Traps will be locked open for at least one to one and a half weeks if possible, based on time window allotted, where traps are grained for pre-baiting.

Once it is determined that prairie dogs are entering traps in sufficient numbers, the traps will be triggered and animals will be captured and removed to a vehicle for transport to Pueblo. Taking this route ensures a large catch rate.

At the end of the project, all traps and other equipment will be removed, and the Company shall receive a report providing detailed information about the number of animals captured. This report shall also be submitted to the appropriate CPW District Wildlife Manager.

Other anticipated actions:

The Contractor must be permitted access to the site by the Company, including driving vehicles on the site to deliver or remove equipment or to collect captured prairie dogs.

The Contractor shall be provided with a primary contact from the Company.

The Contractor shall be advised and cooperatively provided times during which activities unassociated with prairie dogs may occur on the site. For example, construction surveys or other matters related to the business of the Company (this is to decrease unnecessary trapping disturbance).

All traps or other equipment shall not be disturbed during the contract period. This means driving through areas with traps, driving over traps, or removal of traps.

Additional Terms:

Contractor agrees to provide relocation services by employment of acceptable and humane methods, which includes live trapping and soapy water flushing. Contractor does not guarantee complete success of aforesaid methods.

The Contractor shall not be held responsible for incomplete work caused by situations outside of its control. Such examples could include any federal, state, or local laws or ordinances that specifically prohibit activities wherein these agencies halt the removal of prairie dogs or if there is inclement weather or natural disasters or equipment owned by the Contractor is vandalized. Contractor shall be entitled to all payments due for work that was completed. In cases where projects are incomplete, Contractor and Company reserve the right to renegotiate a new contract detailing expenses and timelines for project completion.

Completion of the project shall be determined on a best efforts basis to remove at least 90% of the prairie dogs. Contractor strives for 100% removal of prairie dogs but in some cases prairie dogs may become trap shy or will not come out of burrows while flushing and trapping. It is recommended that this contract extend for a period of at least 2 months. Contractor is not a Certified Pesticide Applicator and cannot provide any services for dusting prairie dog burrows with Delta Dust or extermination of remaining prairie dogs.

It is highly recommended that the Company post signs that state prairie dogs are being humanely removed from the site; thus increasing transparency to the public.

Estimated costs:

The estimate costs to remove prairie dogs shall not exceed $22,000, which shall be due to the Contractor once a final invoice along with other reports have been filed.

Of note, other costs that may be associated with this proposal includes administrative detail beyond what is typically expected, for example, attending city or county meetings, citizen group meeting, etc.

Jeremy Gregory

Director

Tindakan

jeremy@tindakan.org

720.364.0972

APPLICATION TO CAPTURE, MOVE AND RELOCATE BLACK-TAILED PRAIRIE DOGS

APPLICATION PART 1 - PERMIT INFORMATION

- **Live (wild-to-wild) relocation: permit required, complete full application, include $40 permit fee**
- **Transportation of live prairie dogs to black-footed ferret or raptor rehabilitation facilities: permit required, complete only Parts 1 and 2 of application, include $40 permit fee**
- **Transportation of dead prairie dogs to black-footed ferret or raptor rehabilitation facilities: no permit or application required. However, CPW notification is required prior to any trapping efforts and a completed "Dead Black-Trailed Prairie Dog Donation Report" is required after transportation.**

CAPTURE SITE LANDOWNER:

Organization/agency, if any: Waner Construction

Primary Contact (name/title): David Beaudoin

Address: 8950 Barrons Blvd., Unit 103
Highlands Ranch, CO 80129

Phone: 303.683.0099

RELOCATION FROM (address/legal description & acreage):

6940 Stroh Road, Parker, CO

15 occupied actes of prairie dogs.

(CRAIG ZIMMERMAN) SR PM (WCCI)

× PROPOSED CAPTURE SITE LANDOWNER OR OFFICIAL AGENT'S SIGNATURE GRANTING RIGHT TO ENTER, CAPTURE, REMOVE BLACK-TAILED PRAIRIE DOGS. No other capture site will be authorized.

RELEASE SITE LANDOWNER or BLACK-FOOTED FERRET FACILITY:

Organization/agency, if any: U.S. Fish & Wildlife Service

Primary Contact (name/title): Rickey Jones

Address: Colorado Fish and Wildlife Conservation Chico-Basin Conservation Area, U.S. Fish and Wildlife Service, U.S. Army Pueblo Chemical Depot (PCD), Pueblo, Colorado

Phone: 719.549.4228

RELOCATION TO (address/legal description & acreage):

Colorado Fish and Wildlife Conservation Chico-Basin Conservation Area, U.S. Fish and Wildlife Service, U.S. Army Pueblo Chemical Depot (PC

× **RELEASE SITE LANDOWNER** OR OFFICIAL AGENT'S SIGNATURE GRANTING RIGHT TO ENTER AND RELEASE BLACK-TAILED PRAIRIE DOGS. No other release site will be authorized.

APPLICANT/PERMITTEE:

Organization/agency, if any: Tindakan

Primary Contact (name/title): Jeremy Gregory

Address: 238 Sweet Valley Ct

Phone:

× I CERTIFY THAT THE INFORMATION I HAVE PROVIDED IN THIS APPLICATION IS TRUE. I HAVE INCLUDED ALL FEEDBACK I HAVE RECEIVED IN RELATION TO THIS APPLICATION AND I UNDERSTAND THAT ANY ERRONEOUS OR OMITTED INORMATION MAY RESULT IN THE DENIAL OF THIS PERMIT.

MAXIMUM NUMBER OF PRAIRIE DOGS TO BE RELEASED (may not exceed 16/acre): 215

Date(s) for which permit requested:

08 / 15 / 2022 to 09 / 08 / 2022

REQUESTED SPECIAL CONDITIONS

Method of capture: Wild to Wild trapping, Flooding as back up.

Fumigation of burrows? ○ Yes ◉ No

Release Site Management Plan: ○ New ○ Existing

Interim hold? ○ Yes ◉ No

_____ Days

Location: NA

Name & Signature of property owner for interim hold:

☐ Other Special Conditions unique to this permit:

CONTRACTOR:

Organization/agency, if any: Tindakan

Primary Contact (name/title): Jeremy Gregory

Address: 238 Sweet Valley Ct Longmont, CO 80501

Phone: 720.364.0972

× I HAVE READ, UNDERSTAND AND HEREBY AGREE TO ALL TERMS AND SPECIAL CONDITIONS OF THIS PERMIT. I agree to practice currently accepted standards for capture and release to maximize relocation success and comply with Colorado wildlife law.

Volunteers and Employees will be trained on and provided a copy of the **Human Health Risks.** (initial): JG

Non-target captures, injuries and mortalities will be reported immediately to the capture site DWM or other CPW representative. Most non-target captures can then be released. However, in the case of any protected, threatened or endangered species, the capture site DWM or other CPW representative will provide guidance. (initial): JG