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STATE OF COLORADO

Bill Ritter, Jr., Governor
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DIVISION OF WILDLIFE

AN EQUAL OPPORTUNITY EMPLOYER

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*For Wildlife-
For People*

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February 24, 2009

TO: Chaffee County Board of County Commissioners
P.O. Box 699
Salida, CO 81201

SUBJ: Nestle Waters 1041 Application Comments

Thank you for the opportunity to review and provide input on the Nestle Waters North America, Inc. (Nwana) 1041 application.

The proposed Nestle Waters project was presented to our field personnel and they have met with various representatives regarding the proposed development of the water resources and land uses associated with the project.

There are several categories of wildlife found on or near the project area. Following is a synopsis of impacts expected during this project.

Big Game

Deer are the most frequent user of the project area. The scope of the project will not adversely affect the deer. Bighorn sheep frequent the Sugarloaf Mountain area on the eastern edge of the project area. As long as no development and no domestic grazing occur east of County Road 300, the sheep should not be affected. Bear and mountain lion are occasional visitors to the project area, but should not be affected by the project. Elk are routinely found east of the proposed pipeline route. Again, this big game species will not be affected by the project.

Raptors and Migratory Birds

There are several species of raptors that frequently use the general project area. There is an active prairie falcon nest ¼ mile east of the Ruby Mountain Spring. There is an active golden eagle nest one mile north-east of the Ruby Mountain Spring. Bald eagles are present during the winter and into late spring, mainly along the river. More detailed information on bald eagles can be found below in the Special Status Species section. Red-tailed hawks nest in the general vicinity, but none are known to nest within the project area. Peregrine falcons hunt in the valley, but the nearest eyrie is seven miles to the west. Kestrels, sharp-shinned hawks, cooper's hawks, and some other buteos are found in the area depending on the season. The project is not expected to impact raptor species.

Numerous migratory bird species utilize the project area. Table 1-1 (in appendix N) lists several bird species identified during surveys conducted by private consultants over a consecutive 3 day period during the spring of 2008. It is important to note that this list is not inclusive and does exemplify species that may be present in the area during other times of the year. Several of the proposed project practices may improve habitat for some migratory bird species. These include improved grazing management on Nestle owned land, protection of wetlands around springs, and the creation of a “natural” wetlands area in place of the existing fish hatchery structures. The installation of the pipeline may have impacts on migratory birds, depending on the timing of pipeline installation. However, these impacts will be temporary.

Special Status Species

Table 1-2 (in appendix N) lists threatened, endangered, and candidate species that may occur within the study area. The species listed include Gunnison’s prairie dog, Canada lynx, Mexican spotted owl, burrowing owl, bald eagle, Uncompahgre fritillary butterfly, and northern leopard frog. Canada lynx, Mexican spotted owl, burrowing owl, and Uncompahgre fritillary butterfly are highly unlikely to occur within the project area and are therefore a non-issue.

Gunnison’s prairie dog populations (a federal candidate species) do presently occur adjacent to land now owned by Nestle and on land where the proposed pipeline will be placed. Gunnison’s prairie dogs will likely be displaced in the area that the pipeline is being installed; however this disturbance is expected to be temporary. Nestle has recently purchased a 40 acre parcel where Bighorn Springs is located that also contains upland habitat which is suitable for Gunnison’s prairie dog habitat. Gunnison’s prairie dogs presently occur on the adjacent property directly north of this parcel. It is likely that the Gunnison’s prairie dogs may naturally move onto the Nestle property. Nestle has indicated that they will manage the upland property as open space and will allow light to moderate grazing. These practices will not cause any negative impacts to the potential Gunnison’s prairie dog population.

Northern leopard frogs are a state species of special concern and are currently being petitioned for federal listing. Typical habitat for northern leopard frogs includes wet meadows, marshes, and edges of lakes, ponds, streams, and irrigation ditches. The species was once widespread in Chaffee County, but is now only occasionally found in small localized populations within the county. The habitat around Bighorn and Ruby Mountain Springs is suitable for northern leopard frogs; however the presence of the species has not been confirmed in the area. The proposed removal of the Hagen fish hatchery and recreating the area into a natural wetland will provide for suitable breeding habitat for northern leopard frogs. The protection of the wetland areas from over grazing will also benefit northern leopard frogs.

Bald eagles are present in the project area during the winter and into late spring. Bald eagles will roost in the cottonwood trees along the Arkansas River near Ruby Mountain Springs. It is not expected that the level of disturbance to bald eagles will change significantly if the project is implemented. However, we do recommend that Nestle follow the Colorado Division of Wildlife’s (CDOW) *Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors* (2008 document). This document also contains guidelines for other raptors that may be present within the project area.

Aquatic Issues

The CDOW supports the conversion of this facility into a natural wetland. Fish should be prevented from entering the newly created wetland in the future. This could be accomplished by creating a culvert outlet to the Arkansas River from the wetland that fish cannot enter. Should this project be permitted, the CDOW would like to work closely with the applicant in the design of the wetland and outlet works.

All underground directional drilling should be done in upland areas, not within riparian or wetland areas. Best management practices should be used to avoid or minimize soil deposition into aquatic habitats. Any disturbed areas should be re-seeded with an appropriate site specific native seed mix.

NWNA has committed to CDOW to carefully consider the possibility of improved public fishing to the Arkansas River, while protecting the security and integrity of the natural springs and associated aquifer, which will serve as a public water supply. It would be beneficial to the Division of Wildlife and the Public of Colorado if the Arkansas River within the Project area was opened to public fishing. The recommendation from the Division of Wildlife would be to provide one small parking lot adjacent to the County Road about ¼ mile north of the Ruby Mountain Spring (existing fish hatchery area) and allow foot access only from that point. The public would be restricted to the use of one straight foot path to the river, and then use of the river within 50 feet of the ordinary high water line. This would keep the public from entering pump areas and other Nestle Project areas sensitive to human activity.

Other issues

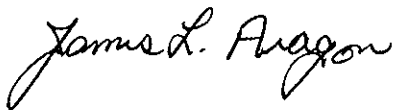
Nestle has recently purchased a 40 acre parcel which contains Bighorn Springs, wetlands, riparian, and upland habitat. This parcel has been used for livestock grazing and will likely continue to be grazed. Nestle has indicated that they would like CDOW to be involved in formulating and implementing a grazing management plan that would be beneficial to fish and wildlife. Grazing timing, intensity, and deferment periods can be manipulated in a way that it can improve the wetland, riparian and upland habitats for the benefit of fish and wildlife species. Wildlife-friendly fence should be used to protect wetland and riparian areas.

If the land that Nestle has purchased and/or is proposing to purchase is protected through County requirements or through a conservation easement, the net benefit to wildlife would be quite large. With this land protected, valuable wildlife habitat would not be lost.

We appreciate efforts to include the Division of Wildlife's recommendations in the planning and execution of this project.

Thank you for providing this opportunity to comment. Please feel free to contact our local Division of Wildlife office at (719) 530-5520 should you have any further needs or questions.

Sincerely,



James L. Aragon
Area Wildlife Manager

CC: Randy Hancock, District Wildlife Manager
Raquel Wertsbaugh, Wildlife Conservation Biologist
Greg Policky, Fishery Biologist