

From: Arkansas Valley Audubon Society

BLM RGFO
OTR Comments
3028 E. Main St.
Canon City, CO 81212

Ref: Over the river DEIS

Dear Mr. Berger:

I am sending these comments of the draft Environmental Impacts Statement (DEIS) for the proposed 'Over the river project ' on behalf of the Arkansas Valley Audubon Society, the Mountain Park Environmental Center and The Wilderness Society. The Arkansas Valley Audubon Society is the local chapter of the National Audubon Society with approximately 450 members, who are interested in enjoying and conserving nature, live in southeast and south central Colorado, including Fremont and Chaffee Counties where the proposed project would occur. Mountain Park Environmental Center is the membership organization that manages the Pueblo Mountain Park for the City of Pueblo where they offer a variety of nature programs, field trips and hikes to natural areas both at the Pueblo Mountain Park and other locations in Colorado. The Wilderness Society, a national organization with a regional office in Colorado that advocates for all Americans who cherish wilderness and the natural world, has significant involvement in the project area including their efforts to have special lands in the Arkansas River area finally designated as Wilderness Areas as well as efforts to protect natural resources in the Arkansas River Travel Management Plan.

We want to thank the Bureau of Land Management (BLM) for the opportunity to comment on this DEIS and for extending the comment period an additional 15 days. To facilitate reading this document will be divided into sections. The first section is about important analyses that were not included in the DEIS.

IMPORTANT ANALYSES NOT INCLUDED IN DEIS

Additional Cumulative Impact Analysis Needed:

Although the DEIS does a very good job of covering most of the impacts of each of the alternatives in this DEIS, it does not examine the cumulative impacts of this proposed project on the areas involved that were part of the Arkansas River Travel Management Plan (TMP) that has not been fully implemented. As I stated in the August special meeting of the Royal Gorge Resource Advisory Committee (RAC), at which you were present, there is not only continuing resource damage in the Texas Creek OHV area that the Arkansas River TMP final Environmental Assessment (EA) was supposed to address but conditions in some parts of that area have deteriorated further since the final EA was signed in May, 2008. Though you stated in that meeting, in response to stated concerns by RAC member Donna Murphy, that the supplementary rules would be in effect soon, the finalization of the rules from the Arkansas River TMP does not equate with implementation which requires on-the-ground work and enforcement of those rules. Since the Royal Gorge BLM office has not had sufficient

staff resources to fully implement the TMP for more than the past 2 years, especially in the area of law enforcement, and there is no guarantee that sufficient resources will be available to fully implement the TMP prior to the beginning construction of the proposed 'over the river' project if it is approved, the cumulative impact of the proposed 'over the river' project compounded on the unimplemented TMP needs to be assessed as a part of this DEIS. Even if the Royal Gorge BLM could fully implement the Arkansas River TMP by the time that the viewing period would occur if the project is approved, and RAC members said they were unaware that there was the possibility of additional law enforcement staff for the Royal Gorge BLM office, there are still impacts from increased visitation during the construction period if the project is approved. Though the increased visitation to the Arkansas River TMP area will be the highest during the 2-3 week viewing period, the DEIS estimates that there will be 15,000 to 38,000 visitors (Exhibit S1) during the construction period. The increase in resource damaging, duplicative and user-created routes are clearly producing significant amounts of fine, loose soil that is adding to the sediment load of the Arkansas River. Additional OHV users who would come to the Texas Creek area as a result of the additional publicity surrounding this proposed project or to view the project and/or its construction would likely increase the damage and resulting sedimentation. Therefore the lack of an analysis of the cumulative impacts of the proposed 'over the river' project on the area where the Arkansas River TMP has not been fully implemented is a serious omission in this DEIS and needs to be done and analyzed as part of the final EIS.

Analysis of impacts of lighting during night construction not included:

Though the DEIS mentions that construction activities would be limited to 8 to 5 pm of the river in order to “minimize disturbance to wildlife” (DEIS-section 5-Wildlife 4), it notes this can be adjusted and provides this mitigation only on construction on the north side of the river. This apparently leaves open the opportunity for night construction activities other than as restricted. Since nighttime construction activities would require the use of lighting and commonly this lighting spills over a large area to accommodate the needs of workmen. Though there is a small section about night lighting mitigation (DEIS-section 5-Visual 4), there is no analysis of the impacts of night lighting during construction activities. Recent research has found that night lighting outside of natural sources (ie, moonlight) can have serious impacts on a number of wildlife species. A study in 2006 that was published in the prestigious journal of the Cooper Ornithological Society, *The Condor*, found that American Robins in areas where there was “large amounts of artificial light frequently began their morning chorus during true night.” (Miller,2006) In their chapter of the book *Ecological Consequences of Artificial Night Lighting* edited by Catherine Rich and Travis Longcore, a USGS scientist, Robert N. Fisher, and Gad Perry, an assistant professor at Texas Tech University note a concern that artificial night lighting is affecting wildlife and may even be contributing to the decline of some reptile species. (Rich and Longcore, 2006) If night time construction is to be allowed, there is a need for a proper analysis of the impacts of the artificial lighting on wildlife so that more adequate mitigation can be devised.

MITIGATION

Usually the topic of mitigation is covered towards the end. However, the lack of specific mitigation strategy will influence comments on the alternatives so I will address this now. I will begin with the general mitigation strategies provided in this DEIS.

As I provided in verbal testimony at the Canon City public meeting on this DEIS, the plans to provide 'guzzlers' or other supplementary water structures for bighorn sheep as a way of mitigating the

likelihood that they will be kept away from the Arkansas River, the traditional source of water for herds on the north side of the river, by this proposed project is of questionable validity. I checked with the Colorado Division of Wildlife staff present at that meeting who stated that they do not have any data on the use of guzzlers in the Bighorn Sheep Canyon. They noted that the only information on the use of guzzlers in this area by bighorn sheep is from viewing hoof prints when conducting surveys in helicopters over the area which has produced few bighorn sheep hoof prints. Additionally, traditional guzzlers (which are intended to gather local precipitation into troughs) may be very ineffective in this area due to the limited amounts of rainfall and the reality that just because it rains in Cotopaxi does not mean that rain fell a mile away. The use of other supplementary water sources that have to be filled by water brought in to an area presents not only logistic problems but can add to the disruption of these herds and cause them additional stress. So though there is evidence of other areas especially with desert bighorn sheep that they will utilize guzzlers, the topographical, low and highly variable rainfall, and other conditions could influence how various herds of bighorn sheep will provide adequate supplemental water for herds in this area.

In chapter 5-Wildlife 4, construction activities are generally limited to 8-5 to reduce disturbance to wildlife. As noted above no analysis of artificial lighting was done in the DEIS. If it is not done, then construction activities need to be limited to daylight hours.

Although helicopter overflights are not allowed during the viewing period, they are not excluded for photographing the installation and decommissioning of the proposed project. Since helicopter overflights are identified in the DEIS as a source of serious disturbance to bighorn sheep and other large mammals, these overflights should be prohibited throughout the installation, viewing and decommissioning of the project if it is permitted.

The other general mitigation strategies listed in the Wildlife section of chapter 5 appear to be effective methods to reduce disturbance as do the strategies listed in the Avian Wildlife and Habitat, Aquatic Wildlife and Habitat, and Wetlands, Floodplains and Riparian sections. Though contractors to these sections, it is also clear that the staff of the Royal Gorge BLM field office have done an excellent job of monitoring raptors as evidenced by the data that has GPS coordinates for those used by Bald Eagles.

I don't know what to think of the section of general mitigation in chapter 5 of the DEIS:

“5.8. THREATENED, ENDANGERED, AND SENSITIVE SPECIES No mitigation measures were identified”

I hope this means that if this proposed project is permitted that specific mitigation strategies will be developed for each of the species in this section that occur in the project area especially since many of them are listed in Table 5-4 as incurring “moderate” impacts even with general mitigation strategies.

Though it is understandable that it would be a prodigious task to develop specific mitigations for each of the Alternatives in this DEIS, it handicaps those of us submitting comments as how the impacts of each Alternative can be avoided or reduced influence the feasibility of each one. A good example of the problem this causes for those submitting comments are the groups of species in the “Threatened, Endangered and Sensitive Species” lists for which there is nothing in this DEIS regarding mitigation except for Bald Eagle. Additionally it precludes the opportunity for interested parties to provide specific information on how viable or effective a mitigation strategy might be which might provide vital information that should be considered in determining the final DEIS such as noted above regarding the strategy to use supplemental water for bighorn sheep. Since the BLM decided to exclude specific mitigation for each Alternative, if the decision is made to permit this project then the BLM should make public those mitigation strategies and provide the opportunity for public comment on them prior to a finalization of the DEIS.

ALTERNATIVES

Alternative 1a,c & d:

The impacts from this Alternative are, quite frankly, mind-boggling. The potential for significant harm to Golden Eagles is well summarized on p 4-19 of the DEIS:

- “The potential for take, as described under the Bald and Golden Eagle Protection Act and the MBTA, is a real possibility. Taken together, these project activities can be expected to result in a moderate to significant impact, depending on how project activities influence nesting success at Vallie Bridge.”

As noted in the DEIS there are risks of collision with the panels by a number of avian species including Bald and Golden Eagles, Peregrine Falcons and the mammal species of bats that are found in the project area.

Also of much concern are the 'moderate' impacts to aquatic wildlife and their habitat with each of the Alternatives 1a, 1c & 1d. In Alternative 1a the DEIS notes that even with the mitigation efforts in the DEIS if there is a severe rain event or hail, the concentrated runoff from the panels could “alter the substrate” that would have a moderate impact. This area is well known for heavy rain events during the summer and thus the risk is very real and the mitigation offered in the DEIS inadequate. Should this proposed project be approved and Alternative 1a chosen, there needs to be further exploration of ways to mitigate such a serious impact including having some type of emergency pull-rope that could be used by those 'river spotters' hired to stand by the panels and that could pull the panel fabric off the frame and back to the rocky area. Also in Alternative 1a the impacts from the level of noise from visitation and increased rafting would have 'moderate' impacts on fish. Since increased rafting contributes to this problem, consideration needs to be given to not allowing increased rafting quotas unless adequate mitigation can be devised. In Alternative 1c it is noted that the level of noise and human activity of increased visitation and rafting over the extended 3 week period of exhibition time would have 'moderate' impacts fish with a potential of long-term impacts on trout from the additional increase in visitors if the viewing period would be extended from two to three weeks. The fishery in the Arkansas River in the project area is very important to many recreationists and impacts not only harm the activity of fishing but the economic value of the fishery to local communities. And for Alternative 1d the move to September viewing would also result in 'moderate' impacts due to the increase of rafting which is usually quite minimal at this time of year.

The negative impacts on bighorn sheep is frightening. This Alternative would, as noted in the DEIS, impact over a thousand acres within a .25 mile buffer of severe winter range, which is so important for all bighorn sheep but especially so for pregnant female bighorn sheep. The DEIS further states on p 4-6, “Despite seasonal avoidance measures, increased activities related to other aspects of the OTR project during the period May through late June would have the potential to impact lambing.” On p 4-7 it is stated, “ If installation activities disperse sheep, they may be forced to move through undesirable habitat making them more susceptible to predators. . . (they)high fidelity to their home range, making it likely they may stay in an area of disruption and suffer the given stress, dust, and other impacts.” This has the potential to increase the probability of South herd mortality. So winter survival of the herd, the health of pregnant females and impacts on lambing, and additional disruptions demonstrate that

Alternative 1a has a significant potential of serious harm to the bighorn sheep that reside in the project area. The disruption to bighorn sheep from this proposed project was even noted in a Forest Service 'Technical Conservation Assessment on bighorn sheep that concluded, "This project, if undertaken, would entail prolonged, disruptive human activity in an important area of seasonal bighorn concentration along the Arkansas River. (Beechan, et al, 2007)

Though some of this disruption to bighorn sheep and avian wildlife can be mitigated by timing restrictions, the only way to avoid serious disruption with potential loss to these herds is to limit the locations where the panels can be draped as outlined in Alternatives 3 & 4.

Alternative 2:

Though there are some reductions in disturbance to some wildlife in this Alternative, the timing with viewing occurring during June/July would seriously increase impacts to avian species as this is the middle of breeding season for most of them and to the bighorn sheep lambing process and viability of lambs. The only mitigation that would reduce these critical impacts would be to move the time frame to August or September. The impacts to aquatic wildlife and their habitats is not reduced over the Alternatives 1a.

Alternative 3:

This Alternative is considerably less draconian in it's impacts on wildlife especially the continued viability of bighorn sheep for which it was devised. Due to a reduction in the miles of panels draped across the river there is a reduction in potential avian mortality from collision. The impacts to aquatic wildlife and their habitats is not reduced over the Alternative 1a so consideration needs to be given to not allowing additional rafting (due to proposed lifting of commercial boating rations) unless a different mitigation can be devised.

Alternative 4:

This Alternative would significantly reduce impacts to wildlife including bighorn sheep and eagles and their habitat just by virtue of reducing the miles of river covered with panels. Clearly the avoidance of the ACEC reduces impacts to both wildlife and plant communities. The impacts to aquatic wildlife and their habitats is not reduced over the Alternative 1a so consideration needs to be given to not allowing additional rafting (due to proposed lifting of commercial boating rations) unless a different mitigation can be devised.

ADDITIONAL SPECIES INFORMATION

BALD EAGLES NOT RESTRICTED TO WINTER:

The DEIS states (p 4-54), "During the installation period, bald eagle strikes on bare wire would be unlikely if cable installation begins in June and cables are removed before the eagles return in November." Though the majority of Bald Eagles are present in the project area only during the November to March time frame, a pair of Bald Eagles has nested only 8 miles from the project area (Four Mile Creek nest location which is noted in the DEIS) for many years including recently. This pair and their offspring are seen occasionally during the summer to fall months in the project area and thus would be at risk for striking bare wire during the installation period. Since a 'take' of this species is very serious and as noted on in the DEIS (p 4-55) "individual permits do not authorize

landscape-scale mortalities and injuries.” Consideration of permitting this proposed project needs to be preceded by an effective strategy to reduce collision by a Bald Eagle with bare wire.

Barrow's Golden eye:

This species is found in good numbers at the Pueblo Reservoir during the winter (documentation of these sightings can be provided). This species has also been seen along the Arkansas River just east of Canon City (again documentation can be provided). It is most likely that these birds utilize the Arkansas River to move from areas in the upper portions including Leadville and Salida. This puts this BLM Sensitive Species at risk for collision with exposed cables during the installation as noted in the DEIS and some mitigation needs to be formulated to avoid this risk.

Peregrine Falcon:

As noted in the DEIS these birds have been observed in the project area and can be expected to hunt in this area due to its proximity to Peregrine Falcon nests. This species is just recovering from near extinction and only recently removed from the Endangered Species List. It is imperative that mitigation strategies be devised to avoid collisions with exposed cables or becoming entangled in panels before consideration of permitting this proposed project.

Bat species:

There are risks of collision with cables and entanglement in fabric panels. As the Thompson's Big-eared bat has two known roosts in the project area and is a Species of Concern in Colorado, mitigation strategies need to be devised to avoid collisions and entanglement—these would likely be helpful to other species not only of bats but birds.

Rare plant species:

Though the rare plant species located in the project area are discussed in Chapter 3 they are not dealt with in the discussion of the various Alternatives and their impacts. As Table 3-23 shows that many (well over 3,000) individual Arkansas Canyon Stickleaf plants as well as some Fendler's false cloak fern are found with several proposed panel sections there are clearly very high risks to this rare species. Other species of rare plants are documented within the project area and at risk for trampling by construction crews, other project employees and visitors. It is vital that effective strategies be devised to protect these rarities before consideration is given to permitting this project since some of these are globally imperiled and one is critically imperiled in this state.

Heronry in the project area not included in DEIS:

A colony of Great Blue Herons established a new colony breeding site less than 50 yards east of the Parkdale Quarry. I observed several nests in a dead cottonwood at this location in late spring 2008. The nest area increased last year and this summer there were 10 nests at this location. These birds are flying up and down the Arkansas River to feed. While the nests are active, the parents try to feed as close as possible to the heronry. If this project is approved, the viability of the nest site may be jeopardized by the activity at the nearby large staging area as well as panels if they are draped in the Parkdale location. There is also a risk that the operator of the Parkdale Quarry could extend the operation to the east right into the heronry area.

ARKANSAS CANYONLANDS ACEC

Though Alternative 4 was formulated to avoid the Arkansas Canyonlands ACEC, very little other mention is made of it in the DEIS. It is important to highlight what is noted on p 3-189: “The Arkansas Canyonlands ACEC is managed to “protect, enhance and interpret scenic, historic and archaeological values, including habitat for the endangered Brandegi Wild buckwheat, Bighorn sheep, peregrine falcons and other raptors (BLM RGFO Arkansas River Travel Management Plan Finding of No Significant Impact, p. 5).” This needs to be considered in deliberations occur regarding permitting this proposed project.

Summary

There has been considerable discussion and concern by local residents and others concerned with the impacts of this project about the overwhelming amount of political pressure to permit the proposed project and especially pressure to permit Alternative 1a because Christo has drawn a line in the sand and stated he would not accept any additional modifications. Letters from the first President Bush as well as the entire Colorado Congressional Delegation revive the memory of the sordid episode of Julie MacDonald, the Deputy Assistant Secretary of the Department of the Interior, who gave more credence to political will than to science. The eventual scandal that soiled the reputation and careers of Ms. MacDonald and others involved plus her resignation stand as a reminder that decisions by government officials need to be made on the basis of science and policy, not political expediency.

Given the high stakes involved in considering this proposed project, a reminder of the mission of BLM is useful: “It is the mission of the Bureau of Land Management to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.” This really puts the task at hand in perspective. In order to “sustain the health, diversity and productivity” of these public lands that would be affected by the proposed project, the wildlife and plant communities in the area that would be affected by the proposed project must be protected from harm that would arise, directly or indirectly, from the proposed project. “For the use and enjoyment of present and future generations”--the Bighorn Canyon area is utilized daily by those who want to enjoy it's natural resources:

If this proposed project is permitted there are projected to be hundreds of thousands of visitors. This area already gets hundreds of thousands of visitors every year: fishermen, rafters who state the wildlife enhances their trip, hunters, wildlife watchers, vacationers, locals who drive into the canyon in hopes of seeing bighorn sheep and just those who are driving through. Many of these visitors will come back, many several times a year while many of those who would come to view the proposed art project will not return, some because their interest is limited to art and they are not interested in the fantastic natural resources in this area.

Much has been said about the economic impact of the visitors who would come to see this proposed project. It is important to remember that wildlife watching has one of the highest percentages of recreationists and some of the most impressive economic impacts for a recreational activity. The most recent report (BBC Research & Consulting, 2008) for the Colorado Division of Wildlife states that wildlife watching in our state amounted to more than \$1.2 million dollars in 2006 (the latest statistics at

the time of the analysis) and almost 13,000 jobs—those numbers have by all estimates increased significantly since then. Loss of wildlife species due to the impacts of this proposed project can significantly alter the species diversity and number in the affected area. The viability of bighorn sheep in this canyon can be altered by losses due to disturbance that makes them vulnerable to disease, inability to get to water, displacement placing them in locations where they are more vulnerable to predation. Should the herds of bighorn sheep in the Bighorn Canyon suffer serious declines, that will effect the many local residents and visitors who enjoy viewing them. Reducing the enjoyment of those who currently enjoy the wildlife and flora in the project area would be contrary to the Mission of BLM. Even more serious would be the loss for future generations.

If this proposed project is approved, it is vital that adequate mitigation strategies be developed to avoid the potential of serious loss of wildlife species including bighorn sheep, Golden and Bald Eagles, Peregrine Falcons and rare plant species.

Sincerely,

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References

BBC Research & Consulting, 2008. The Economic Impacts of Hunting, Fishing and Wildlife Watching in Colorado. Final Report prepared for Colorado Division of Wildlife. (available online at <http://wildlife.state.co.us/About/Reports/EconomicImpacts/>)

Beecham, J.J., Cameron, P., Collins, M.S. And Reynolds, T.D. 2007. Rocky Mountain Bighorn Sheep(*Ovis canadensis*): A Technical Conservation Assessment. Report prepared for the USDA Forest Service, Rocky Mountain Region, Species Conservation Project. (available online at <http://www.fs.fed.us/r2/projects/scp/assessments/rockymountainbighornsheep.pdf>)

Miller M.W 2006 Apparent effects of light pollution on singing behavior of American robins. *Condor*. 108, 130–139.

Perry, G. and R.N. Fisher. 2006. Night lights and reptiles: observed and potential effects. Pp. 169-191 *In*: C. Rich and T. Longcore (eds). *Ecological consequences of artificial night lighting*. Island Press, Washington, D.C.