

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

ROCKY MOUNTAIN PEACE & JUSTICE
CENTER; CANDELAS GLOWS/ROCKY FLATS
GLOWS; ROCKY FLATS RIGHT TO KNOW;
ROCKY FLATS NEIGHBORHOOD
ASSOCIATION; and ENVIRONMENTAL
INFORMATION NETWORK (EIN) INC.,

Plaintiffs,

v.

UNITED STATES FISH AND WILDLIFE
SERVICE; GREG SHEEHAN, in his official
capacity as Acting Director of the United States Fish
and Wildlife Service; and RYAN ZINKE, in his
official capacity as Secretary of the Interior; DAVID
LUCAS, in his official capacity as Project Leader,
Region 6, U.S. Fish and Wildlife Service,

Defendants.

Case No. 1:18-cv-01017-REB

**FEDERAL DEFENDANTS'
OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

Declaration of David Lucas

I, DAVID LUCAS, declare as follows.

1. My name is David Lucas, and I am employed by the U.S. Fish and Wildlife Service (USFWS) as the Project Leader for Colorado Front Range National Wildlife Refuge Complex (Complex). The Complex includes the Rocky Mountain Arsenal, Rocky Flats, and Two Ponds National Wildlife Refuges in the metropolitan Denver area. I also manage refuge lands that are located near Fort Collins, Colorado. I have worked in this position since September, 2013. Prior this position, I was the acting project leader at the Complex, and also worked for USFWS in Anchorage, Atlanta, Denver, and Washington. I serve as the co-chair with the State of Colorado on the Rocky Mountain Greenway Steering Committee. I began my career with the Kentucky Department of Natural Resources before moving to the Service. I have a biology degree and a Master's in Public Administration.

2. I make this declaration based upon professional and personal knowledge of the

Rocky Flats National Wildlife Refuge and if called to testify about the facts included herein, I could and would do so competently.

3. The Rocky Flats NWR was created by Congress in 2001. The Rocky Flats NWR was formally established in 2007 after clean-up occurred by the Department of Energy (DOE), and includes 5,237 acres of land much of which was transferred to the Department of the Interior from DOE. The refuge is located 16 miles northwest of Denver, Colorado and is located within Boulder, and Jefferson County. The purposes of the refuge are (1) to restore and preserve native ecosystems, (2) to provide habitat for and population management of native plants and migratory and resident wildlife, (3) to conserve threatened and endangered species, and (4) to provide opportunities for compatible scientific research. In addition to these purposes, Congress stated that the refuge will ensure that wildlife-dependent recreation and environmental education and interpretation are the priority public uses of the refuge.

Wildlife Dependent Recreation and Other Public Use at Rocky Flats NWR

4. The Rocky Flats National Wildlife Refuge is open to wildlife-dependent recreation. Refuge staff began offering guided wildlife-oriented tours for the public in July, 2015. These tours occur monthly, with the next tour occurring on July 13, 2018.

5. The U.S. Fish and Wildlife Service plans to open a series of internal trails to the public on the Refuge no earlier than September 15, 2018. These trails will generally follow existing roads and do not require additional construction.

6. In the near future, the U.S. Fish and Wildlife Service plans to issue the following documents:

- a. An environmental assessment to determine whether there will be significant effects to the human or natural environment by providing additional visitor amenities at the Rocky Flats National Wildlife Refuge. These increased amenities include

construction of regional trail connections, construction of a multi-purpose facility funded by DOE, and improvements to the Rocky Mountain Greenway Trail;

- b. New or updated compatibility determinations for hunting; wildlife observation, photography, environmental education, and interpretation; a multipurpose facility; commercial photograph; and research; and
- c. In collaboration with the National Wind Technology Center, an environmental assessment to determine whether there will be significant effects to the human or natural environment by constructing additional water and electrical utilities along the western boundary of the Rocky Flats National Wildlife Refuge.

7. The Rocky Mountain Greenway is a federal, State, local, and stakeholder partnership to expand on the Denver/Front Range metropolitan area's existing infrastructure to create an uninterrupted trails/transportation link connecting the Denver/Front Range metropolitan area's trail systems with the three National Wildlife Refuges in the metropolitan region and Rocky Mountain National Park.

8. The USFWS will ultimately make the decision whether or not to allow the construction of these crossings, the specific location of any crossing, and the design of any crossing. However, it is still not known exactly where and how each of the crossings may be built. The USFWS is currently coordinating with Jefferson County and its partners to examine potential locations and configurations to determine potential options as to where and how crossings may be built. No construction will occur in 2018.

9. USFWS also receives funding from the Department of Transportation (DOT) for refuge trails and roads. This DOT program is currently called the Federal Lands Transportation Program (FLTP). The USFWS is currently examining the feasibility of these potential trail locations with a contractor with the FHWA to determine potential trail location options. The USFWS will ultimately make a decision about the location of internal trails and trail crossings at

Rocky Flats NWR, and that decision-making will be accompanied by compliance with NEPA, the Endangered Species Act (ESA), and any other applicable laws. No construction will occur in 2018. The 2005 CCP and EIS anticipated construction of a visitor facility and entrance road/parking lot for the Rocky Flats NWR. The USFWS and the Department of Energy entered into an interagency agreement in 2015 to design and construct a "multi-purpose" building (and associated infrastructure). To date, this project remains at conceptual (25%) design. Should the USFWS continue with this project, additional design work is required prior to soliciting a construction contract.

10. The USFWS will ultimately make a decision about construction of a visitor facility at the Rocky Flats NWR, and that decision-making will be accompanied by compliance with NEPA, ESA, and any other applicable laws. No construction on any visitor facilities will occur in 2018.

Preble's Meadow Jumping Mouse

11. The Preble's meadow jumping mouse (*Zapus hudsonius preblei*) is a federally threatened species found in riparian areas along Colorado's Front Range. In March 2018, the U.S. Fish and Wildlife Service completed an informal consultation under ESA Section 7 evaluating the potential effects of the actions identified in the 2018 Environmental Action Statement on the Preble's meadow jumping mouse and its critical habitat. That consultation concluded that the actions evaluated were not likely to adversely affect the Preble's meadow jumping mouse or its critical habitat.

12. In April 2018, the Refuge issued a report titled "Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) Surveys on the Rocky Flats National Wildlife Refuge (2014-2017)." Unfortunately, no Preble's mice have been located during these last four surveys.

Additional surveys will begin on June 11, 2018.

13. On February 28, 2017, the U.S. Fish and Wildlife Service initiated formal consultation under ESA Section 7 to evaluate the potential effects of future regional trail connections not evaluated in the 2018 Environmental Action Statement. This consultation is analyzing any effects on listed species or critical habitat of the proposed stream crossings to create the future regional trail connections discussed above. This consultation is expected to culminate in a biological opinion.

I declare under penalty of perjury that the foregoing is true and correct to the best of my current knowledge. Executed on June 11, 2018 in Commerce City, Colorado.

David Lucas