

**PARK COUNTY BOARD OF COUNTY COMMISSIONERS  
PLANNING DEPARTMENT STAFF REPORT**

Hearing Date: February 1, 2022

To: Board of County Commissioners

Date: January 25, 2022

Prepared by: John Deagan, AICP, Senior Planner

Subject: Mosquito Creek Project Wildlife 1041 Permit Application

Request: A 1041 Wildlife Permit to allow an Outdoor Recreational Facility in a Significant Wildlife Habitat area

---

**Application Summary:**

Applicant/Owner:	Dirk Long/John Ireland
Location:	Stephens Lode, Mineral Survey #4053, addressed as 4455 C.R. 12, Alma. A vicinity map is included as Attachment 1.
Zone District:	Residential
Surrounding Zoning:	Conservation/Recreation, Mining, and Residential
Parcel Size:	10.33 acres
Existing Use:	Vacant
Proposed Use:	Outdoor Recreational Facility (Backcountry Huts)

**Background:**

This mineral survey was platted in 1885, bought by the current owner in 2019, and rezoned from Mining to Residential in that year. At that time, the owner intended to build a residence on the lot. Since then, he has decided to pursue approval for an Outdoor Recreational Facility, specifically Backcountry Huts. Outdoor Recreational Facilities are a conditional use in the Residential zone district.

According to species mapping, the lot contains habitat for Bighorn Sheep, Black Bear, Elk, Moose, Mountain Goat, Mountain Lion, and Mule Deer. None of these species are endangered, threatened, or of special concern. The lot also contains wetlands, but the proposed development will not disturb them.

Since the lot contains area of potentially significant wildlife impact, notice of the proposed development was sent to Colorado Parks and Wildlife (CPW) in July 2021. In August CPW replied with a recommendation that Park County require a Wildlife 1041

permit hearing. This recommendation is included as Attachment 2. Also in August, the Planning Commission held a hearing regarding the Conditional Use Permit and recommended approval with several conditions, including successful application for a Wildlife 1041 permit.

The applicant's consultant has prepared a wildlife impact report which was revised in accordance with Park County staff recommendations. The revised report is included in the packet, as is CPW's response.

### **Wildlife 1041 Standards of Approval:**

A Wildlife 1041 Permit application may be approved if the applicant demonstrates to the Permit Authority's satisfaction that the net effect of the Proposed Development Project, as evaluated after implementation of all mitigation measures:

- 1) Will not have a significant adverse net effect on wildlife species within the Proposed Development area. Assessment of net effect on wildlife species shall be based on the following:
  - a) The resultant disturbance or harassment to individual animals, groups of animals or wildlife species.
  - b) Site development or activities that disrupt necessary life-cycle functions resulting in stress to the extent that physiological damage is done to an individual animal, group of animals or wildlife species. Examples include, but are not limited to, introduction of non-native vegetation, excessive use of fertilizers and other chemicals, placement of structures in close proximity to nesting and feeding areas and excessive exterior lighting.
  - c) Species' reliance on specific, unique habitat features that may be affected.
  - d) Uniqueness of species to area of Proposed Development within Park County.
  - e) Uniqueness of species to Park County.
  - f) Mitigation efforts that directly address the negative effects of the proposed land use on wildlife species or specific wildlife species impacted.
  - g) Any other significant factor(s) the Permit Authority deems relevant.
  
- 2) Will not have a significant adverse net effect on wildlife habitat within the Proposed Development area. Assessment of net effect on wildlife habitat shall be based on the following:
  - a) The amount of vegetation/habitat removal and/or alteration within the development site.
  - b) The amount of habitat of similar type and quality within the Development that remains contiguous.
  - c) The existing and proposed amount of lot coverage.
  - d) The existence of contiguous habitat of similar type and quality on adjoining land.
  - e) The effect on surface and subsurface water quantity and quality.
  - f) Uniqueness of habitat to the Proposed Development within Park County.
  - g) Uniqueness of habitat to Park County.
  - h) Mitigation efforts that directly address the negative effects of the proposed land use on wildlife habitat.

- i) Any other significant factor(s) the Permit Authority deems relevant.
- 3) Will not have a significant adverse net effect on wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area. Assessment of net effect on wildlife movement patterns/displacement and adaptation of wildlife populations shall be based on the following:
- a) Proposed Development's effect on preventing wildlife from using a habitat they would normally use, such as blocking migration patterns from summer to winter range.
  - b) Proposed Development's effect on causing wildlife to find new routes that expose them to significantly increased predation, interaction with vehicles, intense human activity, or more severe topography and climactic conditions.
  - c) The size of the affected habitat and availability of similarly sized and quality habitat within the surrounding area.
  - d) Inability of the specie or species to adapt to significant alteration of their current habitat.
  - e) Inability of the specie or species to find a new habitat that is sufficient to sustain the species over the long term.
  - f) Mitigation efforts that directly address the negative effects of the proposed land use on wildlife movement patterns, adaptation and/or displacement of wildlife populations.
  - g) Any other significant factor(s) the Permit Authority deems relevant.

### **Mitigation Requirements:**

To meet the intent of the Wildlife 1041 regulations, mitigation measures must be targeted to the specific species or habitat impact brought about by a particular development.

As a mandate, the following steps shall be followed in all Developments requiring a Permit pursuant to these wildlife regulations.

- 1) All measures should first be considered that avoid potential impacts to wildlife and wildlife habitat. If not deemed feasible and practical, then
- 2) All measures should be considered that minimize potential impacts to wildlife and wildlife habitat. If not deemed feasible and practical, then
- 3) Measures should be taken to rectify and reduce impacts to wildlife and wildlife habitat. If not deemed feasible and practical, then
- 4) Measures should be taken to compensate for the impacts to wildlife and wildlife habitat by replacing or providing substitute habitat. If not deemed feasible and practical, then
- 5) A Permit should be denied.

**Action:**

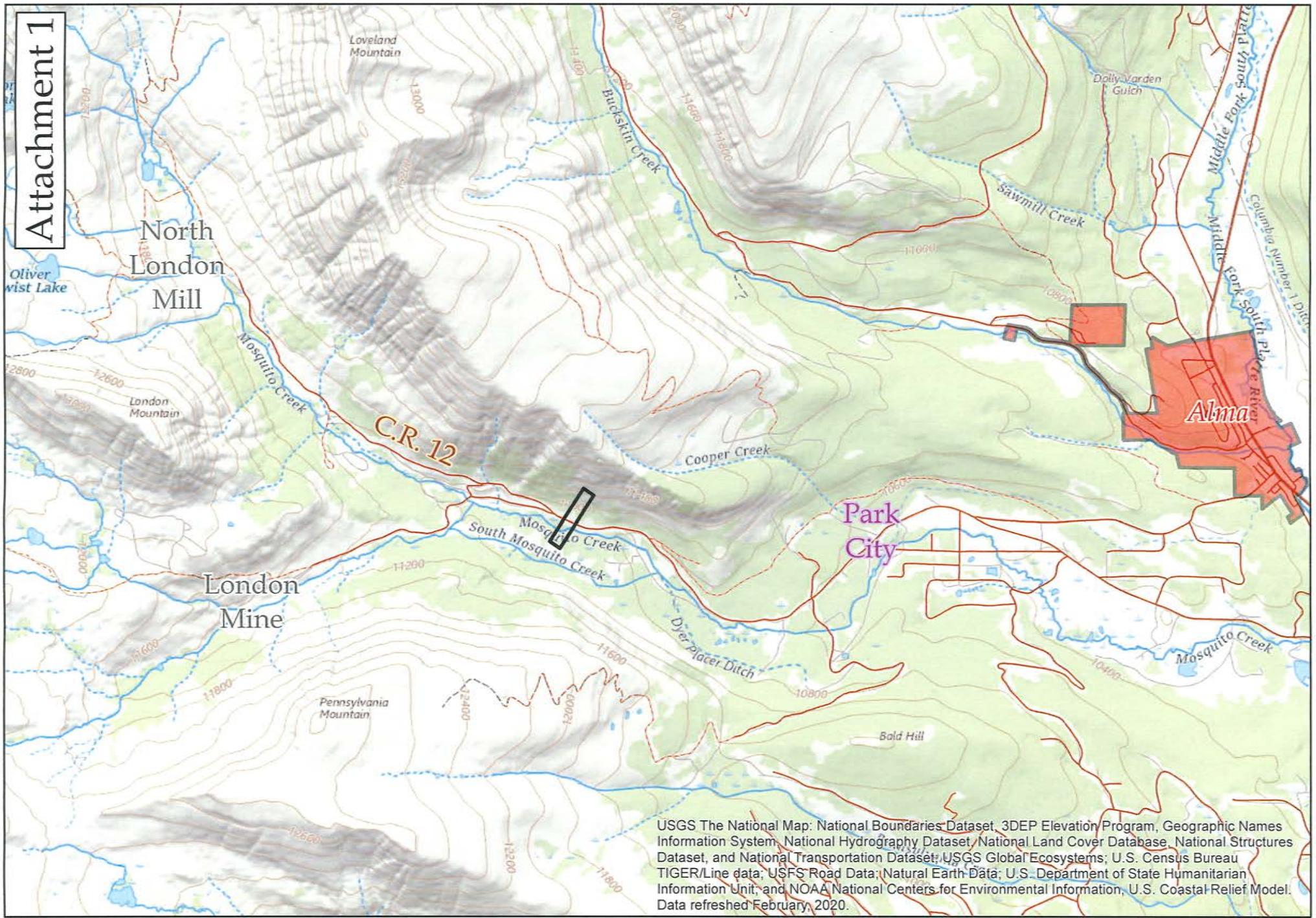
To conclude the Wildlife 1041 hearing, the Permit Authority's options for action are as follows.

- 1) If information presented at the hearing leads you to find that additional information concerning the proposed project must be submitted before you can determine whether all criteria have been met, you may continue the hearing for not more than sixty days unless a longer time is agreed to by the applicant, or you may, at your discretion, deny the Permit.
- 2) If you determine that the applicant has proven that the project complies with all applicable requirements of the wildlife regulations you shall approve the Permit application.
- 3) If the applicant fails to meet any one of the applicable requirements, the Permit may either be approved with conditions to ensure compliance with such requirements, or it shall be denied.

**Staff Recommendation:**

If approval of the permit with conditions is the chosen action, staff recommends that the following conditions:

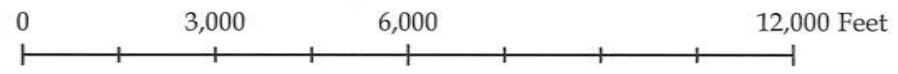
1. That all Proposed Mitigation Measures contained in Section 7.0 of the Wildlife Impact Report dated November 29<sup>th</sup>, 2021 are implemented and complied with for the duration of the use, except where they are superseded by more restrictive Colorado Parks and Wildlife recommendations listed below.
2. That in addition to the above measures, the following recommendations of Colorado Parks and Wildlife staff are implemented and complied with for the duration of the use:
  - a. All pets shall be leashed whenever outdoors.
  - b. Bird feeding is prohibited.
  - c. Bear-proof dumpsters shall be of metal construction and locked unless being actively filled or emptied.



USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road Data; Natural Earth Data; U.S. Department of State Humanitarian Information Unit, and NOAA National Centers for Environmental Information, U.S. Coastal Relief Model. Data refreshed February, 2020.



# Vicinity Map





**COLORADO**

**Parks and Wildlife**

Department of Natural Resources

12102 South Elk Creek Road  
Pine, CO 80470  
P 303.291.7241 F 303.291.7114  
Email: Mark.Lamb@State.co.us

August 16, 2021

**Attention: John Deagan, AICP**  
Park County Planning  
P.O. Box 1598  
Fairplay, Colorado 80440  
Phone: (719) 836-4254

**Re: Mosquito Creek Project**

Dear John Deagan,

Thank you for providing Colorado Parks and Wildlife (CPW) the opportunity to comment on the proposed Mosquito Creek Project located within the southwest quarter of Section 9, Township 9, Range 78. This property is located within Game Management Unit (GMU) 049 in Park County Colorado.

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.

The proposed Morning Air Ranch development site has historically been used by many wildlife species. The proposed changes to the habitat along with the disturbances associated with residential housing developments could alter the wildlife uses of this parcel. The site is located within an area that has been designated as overall range for bighorn sheep (overall habitat and winter concentration area), moose (overall range and priority habitat), mule deer (migration corridor and winter concentration area), elk, mountain lion, and black bears, just to name a few. It should also be noted that this area has historically had a number of bear and human conflicts.

The most critical habitat in that the Mosquito Creek Project could impact is bighorn sheep winter concentration areas and lambing habitat. Bighorn sheep use the alpine areas around the Mosquito Creek drainage, especially the north and west ridges, as winter range during severe winters and lambing areas in the spring. Increased recreation in this area could push sheep off their preferred habitat during severe winters and lambing season. CPW recommends reducing human activity in these



sensitive habitats from November 1<sup>st</sup> through April 30<sup>th</sup> for bighorn sheep winter range and from April 15<sup>th</sup> to June 30<sup>th</sup> for bighorn sheep lambing seasons. Since most of the area is public land, CPW understands that these areas are open to recreation year round. The Mosquito Creek Project's plan to provide accommodations for people seeking access to the National Forest and is likely to significantly increase the amount of users on the landscape during these critical seasons and significantly affect bighorn sheep.

The Mosquito Creek drainage is also summer range and production area for elk and moose. Elk use the vast willow complexes as cover while calving and moving from grazing areas to water. Moose use the willows in the Mosquito Creek drainage to forage year round. Increased recreational use in this area could push elk and moose off of their preferred habitat also.

The presence of black bears should also be respected. All visitors during the summer months should be required to keep all trash in bear-proof containers or inside. Bear proof dumpsters should be provided on site at all times for users to properly dispose of their garbage. All bird feeding should be discouraged. Pets should be fed indoors. Bar-B-Q grills should be stored indoors when not in use, and cleaned and restored indoors after every use. Feeding big game animals in Colorado is not only prohibited, it can also be extremely harmful to wildlife and people alike.

Upon review of the proposed Mosquito Creek Project, CPW found that this project is likely to adversely affect wildlife species, habitat and movement patterns. Therefore CPW recommends that Park County require the applicant to apply for a 1041 Wildlife Permit.

CPW appreciates the collaboration with Park County and its residents as we strive to protect and improve critical wildlife habitat located within the county. Through wise planning and by promoting "wildlife-friendly" lifestyles a number of potential wildlife-related impacts and conflicts can be greatly reduced in not avoided entirely. If the scope of this project changes and/or if you have wildlife-related questions or concerns, please contact Tyler Stoltzfus, District Wildlife Officer, at 303-916-0784 or [tyler.stoltzfus@state.co.us](mailto:tyler.stoltzfus@state.co.us).

Sincerely,

*Mark Lamb*

Mark Lamb  
Colorado Parks and Wildlife  
Area Wildlife Manager - Area 1

cc: Leslie, Schaller, Carpenter, Stoltzfus, file