



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ecological Services  
Colorado Field Office  
P.O. Box 25486, DFC (65412)  
Denver, Colorado 80225-0486

2/29/08  
cc: D Augulski  
A Bannan, P&S  
FILE

314108

ES/LK-6-CO-07-F-014 (amendment)  
TAILS: 65412-2007-F-0507

FEB 29 2008

FEB.29'2008 22:47 3037579746

#6638 P.002/004



Douglas Bennett, Acting Division Administrator  
Colorado Federal Aid Division  
U.S. Department of Transportation  
Federal Highway Administration  
12300 West Dakota Avenue, Suite 180  
Lakewood, Colorado 80228

2/29/08  
cc: D Augulski  
A Bannan, P&S  
FILE

Dear Mr. Bennett:

ES/LK-  
TAILS:

This letter constitutes an amendment to the U.S. Fish and Wildlife Service's (Service) July 25, 2007, biological opinion issued to your agency regarding reconstruction of several chain-up areas along Interstate 70 (I-70) in Eagle, Summit, Clear Creek, and Jefferson counties (ES/LK-6-CO-07-F-014) and their effect on the Canada lynx (*Lynx canadensis*) and greenback cutthroat trout (*Oncorhynchus clarki stomias*).

### CONSULTATION HISTORY

Since the issuance of the biological opinion and construction of a number of the chain-up stations, accidents involving motorists at these sites have occurred. To increase user safety at the chain-up stations, FHWA and CDOT propose to install overhead lighting. This feature was not included in the original project description, though flashing beacons and speed limit signs were anticipated at most sites, therefore, additional analysis of the effects of overhead lighting is needed.

At a meeting held February 25, 2008, it was determined that the chain station at milepost 187, Vail Pass summit, will not be constructed because not only is there no power at the site, but a vegetated wildlife overpass is also proposed at the site. Lighting design was also discussed extensively at this meeting.

### DESCRIPTION OF THE PROPOSED ACTION

Your amendment request for additional lighting at the chain-up stations was received by the Service on February 19, 2008. The proposed work will involve clearing and grubbing areas on the outside of the chain-up stations where light posts will be installed. A trench will be dug from a power source to the light posts and electric cable will be laid. All work and

Mr. Douglas Bennett, I-70 chain-up stations, biological opinion, amendment Page 2

equipment will be contained within the highway right-of-way (ROW). Approximately three months will be required and work will occur between May and September, as weather allows.

Once installed, the overhead lights will only be used when chain laws are enacted and motorists are required to apply chains to their vehicles. Although these circumstances typically occur during inclement weather, the Colorado chain law does not require blizzard or blizzard-like conditions for the law to be enacted; rather, road conditions, not weather conditions, are the primary driver for enactment of the chain law.

All conservation measures proposed in the original biological assessment will be implemented. In addition, the following conservation measures apply to this amendment:

- one percent of any additional costs associated with installation of lighting that was not in the original project budget will be deposited into the lynx fund to be used on a future CDOT Region 1 project for the benefit of the lynx
- proposed lighting is dark-sky compliant and fully shielded, downcast, and will utilize 150-watt bulbs rather than 400-watt bulbs

#### **ENVIRONMENTAL BASELINE**

There have been no changes in the Environmental Baseline since issuing the original biological opinion.

#### **EFFECTS OF THE ACTION**

In addition to the effects already described in the original biological opinion, disturbances due to minor vegetation clearing for light posts and trenching, as well as those due to additional lighting will occur. The disturbances due to actual construction of the lighting will be temporary and spatially confined, but could disturb or displace lynx where the project is visible or audible from occupied habitat. The more significant impacts will come from the use of the lights when the chain law is in effect. Because lynx are primarily nocturnal, this additional lighting could add to the barrier effect of the highway and could be expected to further discourage lynx from crossing the road, which could, in turn prevent or retard their expansion north of I-70 and ultimately slow their recovery in the southern Rockies. This effect will be partially mitigated by the use of downward facing, focused lamps which are used only when the chain law is in effect.

#### **CONCLUSION**

After reviewing the current status of the Canada lynx, the environmental baseline for the action area, the effects of the proposed project, and the cumulative effects, the Service maintains its previous biological opinion that the action, as proposed (which includes the implementation of the conservation measures outlined in the biological opinion), is not likely

Mr. Douglas Bennett, I-70 chain-up stations, biological opinion, amendment Page 3

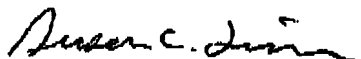
to jeopardize the continued existence of the Canada lynx. Because no critical habitat is present in Colorado, we also conclude that the proposed action is not likely to destroy or adversely modify designated critical habitat for the Canada lynx.

### INCIDENTAL TAKE STATEMENT

There are no modifications to the incidental take statement in our biological opinion due to the addition of lighting at the chain stations. All Reasonable and Prudent Measures and Terms and Conditions from the original biological opinion still apply.

If the Service can be of further assistance, please contact Alison Deans Michael of my staff at (303) 236-4758.

Sincerely,



Susan C. Linner  
Colorado Field Supervisor

cc: CDOT, HQ (Jeff Peterson)  
CDOT, R1 (Deb Angulski)  
Michael

Ref: AlisonH:\My Documents\CDOT 2007\Region III-70 Chain up stations\I-70 chain up stations lynx BO lighting amend.doc