

# **Historical Use Levels, Surface Occupancy and Protection of Wildlife and Habitats**

**Prepared for the National Environmental Policy Act  
Comment Period for:**

## **Sweetwater Lake Recreation Management and Development Project**

**Forest Service, Agriculture (USDA)**

**Notice of Intent**

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## 1.0 OVERVIEW

This comment is to address surface occupancy and historical use as it relates to the Sweetwater Lake Recreation Management and Development Project (SLRMDP), as well as State and Federal guidelines to be applied to protect wildlife and habitat in the area.

Historical use of the Sweetwater recreation area, which comprise the United States Forest Service (USFS) Sweetwater Lake Campground Area and A.J. Brinks Outfitters, is about 31 people/day during peak season. The SLRMDP Notice of Intent (NOI) proposed a recreation infrastructure plan (NOI Sweetwater Project Map 050324) that has a capacity of approximately 252-372 people/day which is an 800% to 1200% increase over historical use. I understand that the proposed capacity was based on “occasional use” for events such as a wedding, which were not common. As will be presented herein, “occasional use” cannot be a factor in determining existing/historical use when it comes to wildlife.

The proposed increase is significant and if implemented, will cause considerable disturbance to the wildlife and habitats. The Colorado Parks and Wildlife’s (CPW’s) marketing campaign is “Keep Colorado Wild”. The scale of the development and the capacity need to be reduced substantially in order to not disturb the wildlife thriving in this serene, resource abundant, natural wildlife refuge, and to Keep Colorado Wild.

In an email thread dated July 10, 2024, between Kenneth Wright (concerned citizen) and Jeff Thompson, Resource Stewardship Program Manager with the of CPW, it was indicated that the CPW has not yet formulated strategies for raptor protection for the SLRMDP. It is understood that the proposed development plan is in its preliminary stages, and this is evident in that it does not yet incorporate wildlife and habitat protections aside from closing the wetland (which people still use). Based on the preliminary research performed during the past 6 weeks for this report, there are areas proposed for development that should be avoided to protect wildlife and sensitive habitats, and the entire area is subject to seasonal closures to protect raptors if daily capacity will increase.

I encourage readers of this comment to read the CPWs *Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors (2020)* due to known nesting Bald Eagles and Peregrine Falcons on the lake and year-round use of this area by Bald and Golden Eagles. These are long standing, researched, credible guidelines that should not be overlooked. In the ‘Overview’ section of CPWs recommendations it reads; *Colorado Parks and Wildlife (CPW) is routinely asked for recommendations on ways to avoid and minimize disturbance to nesting, wintering, and resident raptors in Colorado. These guidelines were originally developed by Colorado Division of Wildlife in 2002 and updated in 2008. We recently (2020) undertook a periodic review of our guidelines to ensure that they are the most up to date based on the best available science and professional judgement.*

Great appreciation goes out to the research effort that many individuals and agencies contributed to develop guidelines that will lead to a well thought out plan that will preserve and protect beautiful Sweetwater Lake and the wildlife that calls it home, now and for generations to come.

Other wildlife concerns uncovered during this short study period include; Elk calving and deer fawning in the pasture of proposed “Area F – Campground” and likely in other pastures in the proposed recreation infrastructure area. Eagles have been observed perching at the edge of this pasture, presumably for hunting. The rare plant species, Harrington’s Penstemon, has been identified in scrub habitat scheduled

for development. The Roaring Fork Audubon Society recently published in their July 21, 2024, newsletter that they identified 83 bird species in the survey around Sweetwater Lake. “Of these 83 species, nine are listed on CPW’s State Wildlife Action Plan, four are listed on the U.S. Forest Service Region 2 sensitive species list, fifteen are listed by the U.S. FWS as species of concern, and the State of North American Bird Report lists twenty-eight of these species with Watchlist scores between 9 and 12 indicating that they are in decline with another three species with Watchlist scores greater than 13 indicating that they are at risk of extinction.”

Due to the abundant and varied wildlife that depend on this area and its special habitats, additional studies (surveys/monitoring) are needed to determine if additional use restrictions, other than those identified herein, should be applied. These studies include, but are not limited to Bald Eagle winter roosting/communal roosting within 2,640 feet of all development areas, extent of hunting ground for Golden Eagle and Peregrine Falcon, extent of elk calving, deer fawning areas, a more thorough survey for the extent of scrub habitat occupied by *Penstemon harringtonii*, and protections for the various birds on the sensitive species list/species of concern identified by the Roaring Fork Audubon Society.

The information herein is based on a short, 6-week, research period studying papers, articles, guidelines, and best management practices regarding Colorado’s species and habitat concerns and conservation efforts, interviews with locals, and several visits to Sweetwater Lake area. Due to CPW’s resources of biologists/ecologists and their extensive knowledge on wildlife and habitat protection, I trust that additional site-specific studies and protections resulting from those studies will be applied.

The current plan appears to have been in the hands of the “P” part of CPW and now the “W” part needs to get involved for the redesign.

## **2.0 HISTORICAL USE ANALYSIS**

Peak season in the Sweetwater Lake areas is estimated to be mid-May to mid-November based on peak camping times in the state of Colorado combined with the time A. J. Brink Outfitter closes in mid-November. Some assumptions have been made based on limitations of the data, so there is a margin of error. However, the margin of error in historical use is considered negligible when compared to the USFS/CPW proposed capacity. The assumptions are based on development details that could not be verified by the USFS at this early stage of planning, particularly in regard to the type of camping and if there will be parking at each campsite. In an email thread between Maria Summerlin (author) and Leanne Veldhuis of USFS between July 1 and July 11, 2014, it was indicated that the USFS does not have a definition for “primitive and semi-primitive” camping, but that the CPW will be managing the park and they do have definitions. The “2024-09720 Federal Register NOI” updated May 6, 2024, and the “Sweetwater proposed action fact sheet 5-3-24” (<https://www.fs.usda.gov/project/whiteriver/?project=64047>) submitted by the USFS indicate that the project proposes “primitive or semi-primitive” campsites in the campground, but the recreation infrastructure plan prepared by the USFS and CPW in the NOI indicates the intent for trailer campsites with bathhouse, which does not meet the definition of primitive or semi-primitive pursuant to Code of Colorado Regulation 6 CCR 1010-9; 2.10 Campgrounds. The count of parking places (i.e. vehicles) used for the calculations are based on the USFS/CPW recreation infrastructure plan, as these specific details were not in the USFS written NOI. If the written NOI is correct with the intent for primitive and semi-primitive campsites, then this will reduce the calculated proposed capacity by about 38 to 50 people (i.e. 15-20 parking spaces). Even with this reduction, the proposed capacity is still about 224-388 people (720% to 1090% increase based on 2.4

people/vehicle). The 2.4 people per vehicle ratio was provided by the USFS in an email dated July 22, 2024. The source of the rationale for the ratio was requested, but was unknown at this time. No documentation on rationale was found during an online search, but a National Park study was found online that used the ratio of 3.5 people/vehicle. Using this ratio, the proposed capacity, based on parking spaces, is on the order of 368-543 people/day, which is an increase of 1166% to 1722% in people/day.

The “use” data for the outfitter is based on when it was fully functional, before the restaurant and cabins were shut down in 2019. The data for the USFS campground was provided to the Sopris Sun for an article in their July 18-25 paper. The data provided herein is estimated to be the most comprehensive data readily available for the historic use of the USFS campground area and A.J. Brinks Outfitter combined, which makes up the historical use levels of the Sweetwater Lake area presented in the recreation infrastructure plan. The proposed recreation infrastructure plan encompasses the USFS campground area and outfitter development plus expansions into additional areas in the Sweetwater Lake area.

NOI documents in their entirety can be downloaded from the website <https://www.fs.usda.gov/project/whiteriver/?project=64047>. Figure 1 has been included to show the recreation infrastructure plan over an aerial photograph in Attachment A. Historical use data from the outfitter and the USFS is included in Attachment B.

## 2.1 Defining Historical Use

The USFS has been cited as saying that the proposed capacity of over 200 people is similar to historical use (recently in the Sopris Sun, Vol 16 No. 22/July 18-25, 2024). However, this is not accurate. Verbally, the USFS and CPW have mentioned that capacity will be limited to 250 people, which is reportedly based on the number of people that may have attended the occasional wedding at the lake. When it comes to impacts to wildlife, occasional use is not to be used in calculating existing or historical use numbers. During these occasional weddings, the people were concentrated in an area, were not out recreating on the lake, camping, or hiking the trails. They were concentrated in a limited area for a few hours, a finite amount of time and space, and then they went home. The duration and impact on wildlife and traffic of these occasional uses is negligible compared to a daily capacity of over 200 people. Daily exposure of hundreds of people to wildlife in this box canyon will have devastating impacts, and that is why there are wildlife protection guidelines to keep this from happening.

The United States Fish and Wildlife (USFWS) in the National Bald Eagle Management Guidelines (May 2007) provide an example of “existing uses” compared to “occasional uses” as it relates to the bald eagle.

*“Eagles are unlikely to be disturbed by routine use of roads, homes, and other facilities where such use pre-dates the eagles’ successful nesting activity in a given area. Therefore, in most cases ongoing existing uses may proceed with the same intensity with little risk of disturbing bald eagles. However, some intermittent, occasional, or irregular uses that pre-date eagle nesting in an area may disturb bald eagles. For example: a pair of eagles may begin nesting in an area and subsequently be disturbed by activities associated with an annual outdoor flea market, even though the flea market has been held annually at the same location. In such situations, human activity should be adjusted or relocated to minimize potential impacts on the nesting pair.”*

Weddings were an occasional use and cannot be a factor considered for historical/existing use levels. The example provided by the USFWS for the Bald Eagle is an appropriate caution for capacity when considering the raptors and other wildlife that depend on this area and the low level of human activity.

## **2.2 Calculating people based on vehicles/parking spots**

Proposed use level is based on parking spots (vehicles) and applying a ratio of 2.4 people/vehicle. The recreation infrastructure plan identifies areas, uses, and parking spaces. As previously mentioned, there are discrepancies in the NOI as to whether the “Area F – Campground” will be primitive, semi-primitive or will have parking. Additionally, “Area E – Administration” did not identify parking spots, which may have been an oversight unless the parking for this area falls under the “Area B - day use” parking. The calculations are based on logical interpretations of the information available in the NOI even if the NOI is not clear on certain specific use information at this time.

The estimated range of parking places (vehicles) is about 105 to 155. This is a tally of parking spots presented in the USFS/CPW recreational infrastructure plan. Using the 2.4 people/vehicle, this results in a proposed capacity of 252-372 people. If the National parks ratio of 3.5 people/vehicle previously mentioned in the Overview section is more accurate, then the proposed capacity for people/day is significantly more.

### Historical use is based on data provided as follows:

- United States Forest Service (USFS): Sweetwater campground use from 2016, 2018, 2019, 2020, 2021, 2022, and 2023 (Attachment B).
- January 25, 2017, classification letter from the Colorado Department of Public Health and Environment for a Non-Public Water System issued to AJ Brinks at Sweetwater Resort – PWSID CO0223727 (Attachment B).
- A 2007-2008 survey of vehicle counts at the USFS campground campsites, adjacent USFS lakeside campground and trailhead parking lot, parking area rear of stables, and lower parking area (below former restaurant) requested by the previous private owner, Midcities Enterprises, LLC, of their tenant A.J. Brinks (Attachment B).

The USFS campground appears to be open year-round and the data provided by the USFS appears to be based on occupancy on an annual basis. Due to the assumed lack of use during the winter, the total annual occupancy was applied to a 6-month time period. This should more accurately reflect when the majority of campers actually use the campground. Based on the assumption that the annual users were concentrated in the 6-month timeframe, the average historical use is 6 people/day. The USFS data indicated an average of 438 nights occupied annually, assumed to comprise 438 vehicles with 2.4 people/vehicle for a total of 1051.2 people. Total people 1051.2/182.5 days (i.e. 6 months) = 5.76, or about 6 people/day.

Note: The count was unusually high in 2021 (59% annual occupancy rate or 688 campsite rentals for the year) presumably due to covid. The 2023 use was the lowest (only 17% occupancy rate or 307 campsite rentals for the year) over the 7 years of data provided.

There is also a USFS campground parking lot adjacent to the campground, lake, and Ute-Deep trailhead. Based on the 2007-2008 study for this parking lot, there was an average of 0.5 vehicles/day. Based on use trends staying relatively flat, and currently declining, it was assumed there was only a small increase,

if any, of use at this parking lot. Therefore, 2.5 people/day were added to the 6 people/day for a total of 8.5 people/day for the USFS campground area (campsites and adjacent parking).

The 2007-2008 data was not used in the daily averages for the outfitter area because of the more recent documented use of an average of 23 people/day for the outfitter in 2016, and the 7-year use history of the campground provided by the USFS. However, the 2007-2008 data implies that use of USFS area and outfitter averaged about 24 people/day in 2007 and 17 people/day in 2008.

### **2.3 Historical Use Summary**

The historical use of the Sweetwater Lake area is about 31 people/day. Due to declining use trend at the USFS campground, and reduction of amenities imposed in 2019 at A.J. Brinks Outfitter, the existing average daily use is considerably less.

### **3.0 DEVELOPMENT LIMITATIONS WITH RESPECT TO WILDLIFE AND HABITAT**

The wildlife present at Sweetwater Lake whose protection guidelines appear to have the most significant impact on use and development are the raptors. This is significant as there is a known nesting pair of year-round Bald Eagles, reportedly additional wintering Bald Eagles, a known nesting pair of Peregrine Falcons, and foraging Golden Eagles that occupy the Sweetwater Lake area. This section will cover human use and surface occupancy limitations within the proposed USFS/CPW recreation infrastructure plan (Areas "A" through "G") along with additional areas of concern that should be addressed, but not identified in the infrastructure plan, including the cliff/scrub habitat area north of the lake and the lake itself.

#### **3.1 Raptors - Surface Occupancy Restrictions and Closures**

Based on the CPWs *Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors* (2020), and to be consistent with closures at other Colorado Parks managed by CPW and National Parks in Colorado, the following applies to the proposed development:

##### ***PEREGRINE FALCON***

*Nest Site: No surface occupancy (beyond that which historically occurred in the area) within ½ mile (2640 feet, 800 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) mile of the nest cliff(s) from March 15 to July 31. Due to propensity to relocate nest sites, sometimes up to ½ mile (2640 feet, 800 meters) along cliff faces, it is more appropriate to designate 'Nesting Areas' that encompass the cliff system and a ½ mile (2640 feet, 800 meters) buffer around the cliff complex.*

##### ***BALD EAGLE***

*Nest Site: No Surface Occupancy (NSO) beyond that which historically occurred, within ¼ mile (1320 feet, 400 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of active nest sites from December 1 through July 31. The majority of bald eagle chicks in Colorado have fledged by July 31; however, for late-nesting or potential re-nesting bald eagles, CPW recommends seasonal restrictions beyond July 31 if chicks are still present in the nest. CPW's recommended buffer is more extensive than the National Bald Eagle Management Guidelines (USFWS 2007) due to the generally open habitat used by Colorado's nesting bald eagles.*

*Winter Night Roost and/or Communal Roost: No permitted, authorized, or human encroachment activities within ¼ mile (1320 feet, 400 meters) radius of an active night and/or communal roost from November 15 through March 15 if there is no direct line of sight between the roost and the activity. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of an active night or communal roost from November 15 through March 15 if there is a direct line of sight between the roost and the activity. If an active winter night roost is located within a Highly Developed Area, then no permitted, authorized, or human encroachment activities within ⅓ mile (660 feet, 200 meters) radius from November 15 through March 15 if there is no direct line of sight between the roost and the activity. No permitted, authorized, or human encroachment activities within ¼ mile (1320 feet, 400 meters) radius from November 15 through March 15 if there is a direct line of sight between the roost and the activity. Note: Communal roosts are relatively rare in Colorado and have disproportionately high biological value. Therefore a reduced buffer within a Highly Developed Area does not apply to communal roosts. If periodic visits (such as oil well maintenance work) to preexisting facilities are required within the buffer zones described above, activity should be restricted to the period between 1000 and 1400 hours from November 15 to March 15.*

*Permitted, authorized, or human encroachment activities = Any activity that brings humans in the area. Examples include construction activities, oil and gas development and production, driving, facilities maintenance, boating, trail access (e.g., hiking, biking), etc.*

*Surface Occupancy = Any physical object that is intended to remain on the landscape permanently or for a significant amount of time. Examples include houses, oil and gas wells, tanks, wind turbines, solar developments, roads, tracks, trails, etc.*

Additional studies are required for Bald Eagle Winter Night Roost and/or Communal Roost as well as foraging habitat for the Bald and Golden eagles and Peregrine Falcons. The CPW guidelines provide the following for the Peregrine Falcon “Due to propensity to relocate nest sites, sometimes up to ½ mile (2640 feet, 800 meters) along cliff faces, it is more appropriate to designate 'Nesting Areas' that encompass the cliff system and a ½ mile (2640 feet, 800 meters) buffer around the cliff complex.” This section for raptor protection focuses on the “known” active nests, and ‘nest area’ cliff complex of the Bald Eagle and Peregrine Falcons, respectively. The CPW raptor protections in relation to the recreation infrastructure plan is included as Figure 2 (Attachment A).

Peregrine falcons are generally monogamous and mate for life, but they will find a new mate if their current partner dies or is replaced by a challenger. Bald eagles typically mate for life, but if one of the pair dies, the other will usually find a new mate and remain in the same territory. The potential for new mates is a caution described in the “Background of Disturbance” in the CPW raptor guidelines.

*The term "disturbance" is ambiguous and experts disagree on what actually constitutes a disturbance. Reactions may be as subtle as elevated pulse rate or as obvious as vigorous defense or abandonment of a nest site. Impacts of disturbance may not be immediately evident. A pair of raptors may respond to human intrusion by defending the nest, but well after the disturbance has passed, the male may remain in the vicinity for protection rather than forage to feed the nestlings. Golden eagles rarely defend their nests, but merely fly a half mile or more away and perch and watch. Chilling and overheating of eggs or chicks and starvation of nestlings can result from human activities that appeared not to have caused an immediate response. Tolerance limits to disturbance vary among as well as within raptor species. As a general rule, Ferruginous Hawks and Golden Eagles respond to human activities at greater distances*



*than do Ospreys and American Kestrels. Some individuals within a species also habituate and tolerate human activity at a proximity that would cause the majority of the group to abandon their nests. Other individuals can become sensitized to repeated encroachment and react at greater distances. The tolerance of a particular pair may change when a mate is replaced with a less tolerant individual and this may cause the pair to react to activities that were previously ignored. Responses will also vary depending upon the reproductive stage. Although the level of stress is the same, the pair may be more secretive during egg laying and incubation and more demonstrative when the chicks hatch. Recognizing that there is individual variability, the buffer areas and seasonal restrictions suggested here reflect an informed opinion that if implemented, should assure that the majority of individuals within a species will continue to occupy the area. Also, in order to allow for individual variability and renesting pairs, CPW recommends seasonal restrictions continue to be implemented until the chicks have fledged. Other factors such as intervening terrain, vegetation screens, and the existing cumulative impacts of activities should also be considered.*

*A 'holistic' approach is recommended when protecting raptor habitats. While it is important for land managers to focus on protecting nest sites, attention should also focus on defining important foraging areas that support the pair's nesting effort. Hunting habitats of many raptor species are extensive and may necessitate interagency cooperation to assure continued nest occupancy. Unfortunately, basic knowledge of habitat use for individual nesting pairs is often lacking.*

### 3.1.1 Raptor Nesting Season Closures

The entire development footprint of the recreation infrastructure plan (Areas A through G), is located within 2,640-feet of the Peregrine Falcon 'Nesting Areas' cliff complex, and is subject to the surface occupancy restrictions and closures from March 15 to July 31.

Areas A, B (north and south), C, D, and portions of Areas E and F are also located within 2,640 feet of the Bald Eagle nest and is subject to closures December 1 to July 31.

Area F, although within the 2,640-foot radius, is only partially within line of sight of the Peregrine Falcon cliff complex. The northwest portion appears to be within line of sight of the raptor's nests. A more thorough evaluation of line of sight of Area F is needed. A good portion of this area is obstructed from line of sight due to an outcrop (part of the cliff complex) falling between this area and the lake/nests.

Area G could not be accessed to evaluate "line of sight" due to gate closures when this visit was planned. Based on a topographic analysis (using AllTrails®) and driving along Sweetwater Road, it appears that this elevated area is likely within line of sight in part or in its entirety. Furthermore, the cliffs located about 240 feet south of this area could possibly be part of the 'nest area' cliff complex for the Peregrine Falcon. If this cliff should be considered part of the cliff complex for the Peregrine Falcon, then the entire Area F is within line of sight of this portion of the Peregrine Falcon 'nest area' cliff complex.

Sweetwater Lake: If use of the lake will increase, it is crucial that the lake be closed December 1 to July 31, to protect the raptors. The entire lake, with exception of some pockets along the south shores, is within direct line of sight of the raptor nests, and is surrounded by the falcon 'nest area' cliff complex. Based on personal observations and an interview with Adrienne Brink, owner/operator of A.J. Brinks Outfitter (tenant at Sweetwater Lake for 39 years), the lake is usually only occupied by 0 to 2 vessels during the week, and Sundays are the busiest days with as many as 10 vessels (paddle boats, kayaks, paddle boards). During a site visit on July 6, 2024, the Saturday of July 4<sup>th</sup> weekend, there were only five

(5) vessels on the lake; two sets of two paddle boarders, and one paddleboat. The majority of the time the lake is quiet with little to no users.

Noise from increased capacity will play a significant role in disturbance to the raptors. Noise travels easily on calm water, such as present on the lake's surface. Cliffs cause reflection of noise, which only exacerbates the noise levels and carry distance in this canyon. An increase in lake users or human activity along the lake will significantly increase the noise levels to those never experience by the raptors, and put the raptors and their young at risk. Therefore, applying CPWs seasonal restrictions for these raptors are essential.

### 3.1.2 Raptor Surface Occupancy Restrictions

The entire development footprint of the recreation infrastructure plan (Areas A through G) as well as a considerable amount of the surrounding area, is located within 2,640-feet of the Peregrine Falcon 'nesting areas' cliff complex, and is subject to the surface occupancy use restrictions, meaning No Surface Occupancy (NSO) beyond that which historically occurred.

The central part of the lake and part of Area C fall within the 1,320-foot radius of the Bald Eagle Nest, which is encompassed by the falcon radius, so this area is also subject to the NSO restrictions above.

Surface occupancy is "Any physical object that is intended to remain on the landscape permanently or for a significant amount of time. Examples include houses, oil and gas wells, tanks, wind turbines, solar developments, roads, tracks, trails, etc."

Existing surface occupancy observed within the 2,640-foot radius of the Peregrine Falcon nest and nest cliff complex:

- Cabins (About 9 spread out through outfitter area. Historically used for visitors or employee housing. Currently closed with about 2 used for employee housing)
- Former restaurant
- Potable well
- Septic system
- Lodging adjacent to former restaurant (employee housing accommodates 3)
- Outhouse (current stable area)
- Stable (with miscellaneous facilities adjacent to northwest side of building)
- Paddock (daily horse corral adjacent/southeast of stables)
- Fences (various)
- Horse pins (current equestrian area)
- Signs (various)
- Boat supply shed (near northeast corner of lake)
- Floating boat dock (near northeast corner of lake)
- Unimproved driveways (various to access cabins and amenities)
- Unimproved parking (southeast of existing equestrian area and around former restaurant/lodge)
- Gravel driveways (historical USFS area)
- Gravel parking (historical USFS area)
- Vaulted toilet (USFS campground)
- USFS Campsite clearings (6 functional but technically 9 available), each with pole for hanging trash bags, bear-proof storage, fire grate, and picnic table

- USFS One “Day use only” picnic table at south end of USFS parking below campground
- USFS Sweetwater Nature Trail (southeast of lake)
- USFS Ute-Deep (and Cross Creek via Ute-Deep) trailhead and portions of these trails east and southeast of lake

The spirit of the surface occupancy restriction is presumably for no net gain of surface occupancy within the buffer radius. This is to prevent loss of habitat for raptor and their prey, and to prevent added disturbance of creating areas/structures that would draw additional human activity, create noise or other disturbances that raptors would be sensitive to.

If current surface occupancy features will be moved or modified, new surface occupancy should be “in kind”, as to not increase human activity, and restoration of former locations to natural state would be needed for no net gain of surface occupancy. This should be done using best management practices. Example, if six (6), one-story buildings (i.e. cabins) are demolished across the area equaling 8,000 square feet, this does not mean that one, 4-story, 8,000 square-foot building can be constructed lakeside for no net gain. This approach would place more human activity in closer proximity to the raptor nests and cliff complex. This would not be in the spirit of the CPW’s raptor protections and could put the raptors at risk. Another example would be if the horse stables are demolished, a new building with the same square-footage cannot be erected for the intent of increased human activity other than that historically at the stables (typically 2 workers and an average group of 6 for horse rides), within the 2,640 radius. This would not be “in kind” nor in the spirit of the CPW’s raptor protections.

### 3.1.3 Raptors Protection at Other Colorado State and National Parks

Closures and use restrictions are enforced at other parks and recreation areas in the State of Colorado. For instance, Fishers Peak State Park (FPSP) regulations initially enforced the peregrine falcon nest buffer closure March 15 - July 15. The park regulations were established prior to the park opening and before the current CPW 2020 guidelines requiring closure from March 15 to July 31. This issue in discrepancy was made on an Issue Submittal Form dated June 7, 2021, and the park regulations were subsequently updated to meet the current CPW closure guidelines.

Lake Pueblo State Park (LPSP) used to be known for its Bald Eagle population. So much so, a winter festival was created to celebrate the majestic national symbol. Today, LPSP is the most attended State Park in the State as of 2023, and now it is difficult to find a Bald Eagle in this park. There is speculation that global warming could be one of the reasons, but Mike Sherman, a wildlife biologist in CPW’s northeast region, suggested that human disturbance could be the culprit. “It can be as simple as more boat traffic, or a new recreation trail or a parking lot,” he said.

(<https://coloradooutdoorsmag.com/2018/01/16/a-majestic-mystery/>)

Barr Lake State Park (BLSP), like Sweetwater Lake has a year-round Bald Eagle that nests annually. The southern, approximately ½ of the lake is designated as a Wildlife Refuge and comprises a rookery and the bald eagle nest. No human activity on the lake can occur within the refuge, and there is a single trail for hiking only to visit the refuge and to view the active bald eagle nest from the CPW ¼-mile (1,320 feet) buffer. No pets are allowed in the refuge.

The following parks near the front range have area closures generally from either December 15 to July 31 or February 1 through July 31 depending on if it is an eagle or falcon nest, respectively, to protect raptor nests; Boulder Canyon - U.S. Forest Service, Boulder Open Space and Mountain Parks, Eldorado Canyon

State Park, Jefferson County Open Space - includes Clear Creek Canyon, Rocky Mountain National Park, and Staunton State Park.

Castlewood Canyon State Park (CCSP) closes several trails and climbing routes to protect nesting raptors and other wildlife at the park. The specific raptors and wildlife were not identified in readily available sources, but the available literature indicates a variety of raptors including golden eagles. The closures include East Canyon Trail November 1 - May 1, and restricts dogs and other pets or leaving the designated trails year-round. Morning Sun Wall is closed March 1-July 31, Porky's Wall is closed March 1 - July 31, Vultures Wall is closed March 1-May 31, Shakespearean Theater is closed March 1-May 31, and Mind Meld is closed March 1-May 31.

Rocky Mountain National Park (RMNP): According to the park's website, "Each year, Rocky Mountain National Park initiates adaptive, temporary closures in certain areas of the park to ensure birds of prey, also known as raptors, will be undisturbed during their roosting, breeding, and nesting seasons. Raptors are sensitive to human disturbance during these times and repeated breeding failures can reduce overall raptor species populations." Raptor Closures are in Effect in Lumpy Ridge and the Loch Vale Areas from February 15 through July 31. Bald Eagle Closures are in Effect November 15 through March 15..."

"Closures are collaboratively managed by RMNP and the U.S. Forest Service and will be lifted or extended as necessary."

"Temporary closures occur at known raptor roosting and nesting sites that are also near rock climbing routes, hiking trails, or other focused recreational use areas. Temporary closures also protect park visitors, as raptors may attack people to defend their nests."

### **3.2 Other Wildlife and Sensitive Habitat**

This section will cover other wildlife and sensitive habitats identified during my research. This should not be construed as a comprehensive list and only identifies the most readily observed, reported, or those based on common knowledge. There are more rare and protected species that may use this area, and due to their rarity, their presence may not be common knowledge or have been readily observed. Additional studies are warranted.

#### *3.2.1 Deer and Elk*

In a November 28, 2023, *Vail Daily* article, *How can Eagle County save its declining elk population?* by Zoe Goldstein, it was reported "In 1995, the elk population in the Colorado Parks and Wildlife data analysis unit that includes Eagle County contained just under 15,000 individuals. In 2015, the elk population was 6,400. Currently, Colorado Parks and Wildlife manages within Eagle County for an elk population of between 5,500 to 8,500. In 2018, the *Vail Daily* reported that Eagle County had seen a 50% decline in its elk population." For readers unfamiliar with the geography, this article is significant as part of the Sweetwater Lake area is in Eagle County (the proposed development within Garfield County) and it is located within the White River National Forest where herds can move freely.

Based on the CPWs "*Status of Colorado's Deer, Elk, and Moose Populations (February 2020)*" "Mule deer populations in Western Colorado have been declining since the 1970s." "Colorado's statewide deer population declined from roughly 600,000 deer in 2006 to approximately 433,000 in 2018. Some herds have yet to recover from the severe winter of 2007-2008. Population estimates are still far below the

sum of individual Herd Management Plan population objective ranges (500,000-560,000) for all 54 deer herds combined.”

In the July 23, 2024, NEPA comment for this development, by Larry Green, the Colorado Division of Wildlife District Wildlife Manager for the Sweetwater Lake area from 1971 thru 1999, “The area between Nellie’s Trail #1839, Johnny Meyers Trail #2067, Ute Trail #2032 and the Keep Ditch is one of the most important big game wintering areas and should also be protected. During winters between 1971 and 1999, deer and elk would winter up to 10,000 feet in elevation on this south facing slope. This included even the very snowiest of winters. In past years, the Division of Wildlife invested in aerial fertilization of this important winter range.”

The trail system referenced by Mr. Green is about a mile to the northwest, north and northeast of pastures in Areas F and G, and it only seems natural for these populations to take advantage of the readily available pastures. The pasture in Area F is a known elk calving and mule deer fawning area, and it is readily seen from Sweetwater Road. It is likely that the pasture in Area G is also used by the elk and deer, as this area is more remote and not visible from the human activity center or Sweetwater Road.

Due to the decline in these species and CPWs efforts in conservation for these animals, these pastures should not be developed. As part of the park’s land management, I would suggest that this area be conserved for these populations and even enhanced by fertilizing and/or transplanting native meadow grasses. Based on the use of these pastures both by the elk, deer and the horses of the outfitter, it appears there may not be an issue in sharing.

Due to its popularity, it is worth mentioning that there is a moose that uses the Sweetwater Lake area. According to the aforementioned CPW 2020 publication, “CPW transplanted moose into Colorado with five releases from 1978 to 2010 to create hunting and wildlife viewing opportunities. Moose continue to increase in number and pioneer new habitats on their own.” It is important to note that moose are not native to Colorado and there are reports that they are contributing to the decline of elk and deer populations. Therefore, no protections or conservation recommendations for the moose are included herein.

### 3.2.2 Scrub Habitat and Harrington’s Penstemon (*Penstemon harringtonii*)

The presence of *P. harringtonii* was observed in scrub habitat slated for recreational infrastructure development during site visits in June and July of 2024. This species is on the United States Forest Service (USFS) “Sensitive Species” list. As presented in the *Genetic Investigation into the Diversity and Population Structure of Penstemon harringtonii (Harrington’s Beardtongue), 2017, Nathen P. Redecker, University of Northern Colorado*. “Currently, *P. harringtonii* has protection under the Bureau of Land Management (BLM) State Director’s Sensitive Species List as well as the United States Forest Service (USFS) (Region 2) sensitive species list.”

More details on the presence of this species in the development area is presented in my July 24, 2024 comment *Protection for Harrington’s Penstemon (Penstemon harringtonii), Sweetwater Lake Recreation Management and Development Project*. It is recommended that all scrub habitat in the area be avoided to conserve this rare species.

### 3.2.3. Abundance of Bird Species

With global warming, habitat destruction and fragmentation, bird populations have been on the decline. Roaring Fork Audubon Society recently published in their July 21, 2024, newsletter that they identified 83 bird species in the survey around Sweetwater Lake! “Of these 83 species, nine are listed on CPW’s State Wildlife Action Plan, four are listed on the U.S. Forest Service Region 2 sensitive species list, fifteen are listed by the U.S. FWS as species of concern, and the State of North American Bird Report lists twenty-eight of these species with Watchlist scores between 9 and 12 indicating that they are in decline with another three species with Watchlist scores greater than 13 indicating that they are at risk of extinction.”

In the afternoons at Sweetwater Lake during spring and summer you can see an abundance (more than you can count) of swifts, swallows, and hummingbirds swishing, swooping and banking around your head gobbling up mosquitoes. One of my favorite observations; at dusk there are at least two Common Night Hawks that are a frequent sight in the Sweetwater Road corridor near the entrance to the recreation area (there is no traffic at this time) that perform their acrobats in the air, taking advantage of swarms of mosquitos and other insects. Yes, mosquitoes. This area is dense with mosquitoes, which may be why the USFS campground is rarely at capacity and often empty. Mosquitoes are an important food source and supports this abundant and varied bird population at the lake.

In the U.S., Common Nighthawk populations declined by over 1% per year between 1966 and 2019, for a cumulative decline of about 48%, according to the North American Breeding Bird Survey. Across North America, threats include reduction in mosquitoes and other aerial insects due to pesticide use, and habitat loss of open woods in rural areas and flat gravel rooftops in urban ones. Nighthawks are also vulnerable to being hit by cars as they forage over roads or roost on roadways at night. Source [https://www.allaboutbirds.org/guide/Common\\_Nighthawk/lifehistory#](https://www.allaboutbirds.org/guide/Common_Nighthawk/lifehistory#).

The proposed development will increase traffic on the order of 1000% in the Sweetwater Lake area. Currently traffic is low at the park end of Sweetwater Road (many minutes to several hours between vehicles), and traffic is generally nonexistent when the Common Night Hawks come out. The traffic from the development as proposed will likely mark the end of the Common Nighthawk in this area as well as result in the decline of other birds and wildlife.

In my research, it appears that mosquito control is not used at Colorado State Parks. It is crucial that mosquito control is not used at Sweetwater as mosquitos are a vital part of the ecosystem that the wildlife depends on.

### 3.2.4 Cliff and Scrub habitat immediately north of the lake (across from raptor nests)

The proposed use of this area is the development of a trail system and two “lookout points”. Currently this area is undeveloped, but there are scars of unofficial trails assumed created by human use. This area is currently closed to the public due to “fall hazard”. This scrub habitat in this area likely supports a population of *Penstemon harringtonii*. This area is also within direct line of sight, and in close proximity to the Bald Eagle and Peregrine Falcon nests. According to the CPW restrictions, new trails are considered “surface occupancy” and are prohibited in accordance with the guidelines and this area should be closed December 1 through July 31. This is a popular area due to the views and one of the two areas that make the raptors most vulnerable due to the proposed increase in capacity. The lake being the other.

Due to the rarity of being able to see two raptors nesting so close to each other, I understand the educational benefit of sharing this with inquisitive visitors, but only with extreme care and not to the detriment of the raptors. There is an existing unofficial trail at the north side of this area starting near a clearing by Sweetwater Road that may have been used for camping. The unofficial trail leads along and within the tree line to the proposed northwest viewpoint. This area is at a relatively low elevation with scrub oaks that may camouflage the presence of humans, in controlled numbers, from the nesting raptors. Supervised visits to the view point, equipped with a permanent viewing scope, during nesting season could be allowed under specific conditions. The guide should be appropriately trained staff, with authority to terminate the guided viewing if abnormal behavior or subtle signs of stress in the raptors are observed. The guide should also have the authority to terminate the viewing due to visitor conduct/behavior with potential to disturb the raptors. This area should be investigated further by environmental professionals experienced in raptor behavior and best management practices to determine if the natural vegetation at the viewing point will adequately camouflage viewers, and if the controlled viewing setting is suitable for raptor protection.

Outside of seasonal raptor closures, great care should be taken to limit the trail system in this area for minimal habitat impact due to the likely presence of *Penstemon harringtonii*. The scars of unofficial trails should be used rather than creating a new trail system in an effort to minimize impacts to the habitat. Currently there are three trail scars: 1) An “S” shaped trail from Sweetwater Road to the high point of the cliffs, 2) a short trail along the tree line from Sweetwater Road (at a former campsite clearing) to the aforementioned raptor viewpoint, and 3) trail bordering the lake.

### 3.2.5 Sweetwater Lake and Protection for Lake Dependent Wildlife

This area was not included in the recreation infrastructure plan, but mention of additional water access was included in the written NOI. As identified in section 3.1.1 and 3.1.2 of this report, this area falls within the seasonal restrictions and surface occupancy limitations under the CPW raptor protection guidelines. This means if capacity of the area will increase, the lake should be closed from December 1 to July 31. Additionally, no surface occupancy other than the existing boat dock is permitted under the guidelines.

The lake is often vacant during the week and on its busiest days may be occupied by 10 vessels (paddleboats, kayaks, paddleboards). The busiest days are uncommon and are for a short duration. The wildlife dependent on the lake is accustomed to the historical use levels. The proposed capacity would increase these busiest days, presumably by 1000%, and the days of respite for the wildlife will cease to exist. Closure of the wetlands to the north was a proactive, environmentally responsible action by the USFS, but in my observations, the wetland is entered regularly. This is the first place paddleboarders and kayakers head to when they enter the lake. A sign at the boat house is not enough. Additional signage and buoys on the lake surface are needed.

During a visit with the Roaring Fork Audubon Society in June of this year, we observed that the lake had one (1) human occupant, an individual on a kayak. At our observation point, we observed an adult Bald Eagle roosting on a tree limb of a snag near the northwest shore of the lake, about 700 feet north of the occupied nest. The individual, who was in the wetland, kayaked towards the eagle, causing the eagle to flee the area and the eagle did not return to this area during our time at the park that day. I’m still curious if the eaglet in the nest missed a feeding from its parent that day because of the disturbance of

this one person. Following the disturbance of the Bald eagle, we watched the individual in the kayak approach three foraging Great Blue Herons, which caused them to flee from the northwest side of the lake to a point near us, and then the herons noticed our group and fled further north. The individual on the kayak then approached a gaggle of Canadian Geese in the wetland causing them to flee their respite and foraging activities at the north end of the lake by the wetland. They fled towards and past us as the kayaker followed. The kayaker then approached us and humorously volunteered to us that he upset the beaver that was working at the beaver dam at the north end of the lake and hasn't seen him since. This kayaker was just one individual who unwittingly caused considerable wildlife disruptions, the eagle, herons, geese, and beaver, on Sweetwater Lake in a manner of minutes. The proposed capacity compared to the observed wildlife disruptions from a single individual indicate that the wildlife needs a refuge on the lake, buffered from human harassment.

I recommend that during the time the lake is open, August 1 through November 30, that only the southern 1/3 of the lake be accessible for human activity. This is similar to the closure at Barr Lake State Park, which includes buoys as demarcation of the restricted area. This should be adequate to provide the lake dependent wildlife the independence to proceed with their daily routines required for a healthy life without being harassed or molested by humans. This is vital for the continuation of a thriving ecosystem and the wildlife of the lake area.

### 3.2.6 Dark Sky Designation to Protect Flora and Fauna

There have been multiple studies that have identified the negative effects of artificial light on the health of most living things including plants and insects all the way up to humans. Artificial light affects the circadian rhythm which is the internal clock that regulates physical, mental, and behavioral changes in organisms over a 24-hour cycle.

According to the Florida Fish and Wildlife Conservation Commission <https://myfwc.com/conservation/you-serve/lighting/pollution/#:~:text=Artificial%20light%20has%20also%20been,an%20increased%20rate%20of%20tumors>, artificial light has several general effects on wildlife:

- Attracts some organisms (moths, frogs, sea turtles), resulting in them not being where they should be, concentrating them as a food source to be preyed upon, or just resulting in a trap which exhausts and kills them.
- Repels some organisms, excluding them from habitat where they might otherwise make a living. Makes it a form of habitat loss.
- Alters the day/night patterns, resulting in not getting enough sleep, not having enough down time for the body to repair itself, alters reproductive cycles.

Artificial light is detrimental to wildlife, and therefore light restrictions should be enforced in the recreation plan. A Dark Sky Designation for the area is recommended.

## 4.0 SUMMARY AND RECOMMENDATIONS

According to the CPWs raptor protection guidelines, the entire development footprint of the recreation infrastructure plan (Areas A through G), is located within 2,640-feet of the Peregrine Falcon 'Nesting Areas' cliff complex where there is to be *No surface occupancy (beyond that which historically occurred in the area) within ½ mile (2640 feet, 800 meters) radius of active nests. No permitted, authorized, or*



*human encroachment activities within ½ mile (2640 feet, 800 meters) mile of the nest cliff(s) from March 15 to July 31. Due to propensity to relocate nest sites, sometimes up to ½ mile (2640 feet, 800 meters) along cliff faces, it is more appropriate to designate 'Nesting Areas' that encompass the cliff system and a ½ mile (2640 feet, 800 meters) buffer around the cliff complex.*

Areas A, B (north and south), C, D, and portions of Areas E and F are located within 2,640 feet of the Bald Eagle nest where there is *No Surface Occupancy (NSO) beyond that which historically occurred, within ¼ mile (1320 feet, 400 meters) radius of active nests. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of active nest sites from December 1 through July 31. The majority of bald eagle chicks in Colorado have fledged by July 31; however, for late-nesting or potential re-nesting bald eagles, CPW recommends seasonal restrictions beyond July 31 if chicks are still present in the nest. CPW's recommended buffer is more extensive than the National Bald Eagle Management Guidelines (USFWS 2007) due to the generally open habitat used by Colorado's nesting bald eagles.*

The spirit of the CPW guidelines is to prevent development activities from destroying hunting/foraging habitat and restrict human activity in raptor nesting areas. Abiding by CPWs guidelines will help save this natural wildlife refuge from overdevelopment and crowds the wildlife cannot tolerate.

The following is also recommended:

- The scrub habitat be avoided to conserve the rare plant species, *Penstemon harringtonii*,
- The elk calving and mule deer fawning pastures be protected and enhanced,
- Minimize the proposed trails in the cliff and scrub habitat directly north and across the lake from the falcon nest, but include an educational, guided raptor tour viewing,
- Close off the northern 2/3 of the lake during the time the lake is open, August 1 to November 30, to serve as a much-needed respite, free from human harassment, for the year-round wildlife,
- Due to the calm water and cliffs enhancing the ability of noise to carry, enforce noise restrictions as to not disturb wildlife, and
- Artificial light is detrimental to wildlife. A Dark Sky Designation for the area is recommended.

*Additional studies needed:*

- *Bald Eagle "winter night roost and/or communal roost" study should be performed throughout the entire development area, plus a 2,640 buffer of development area, since Bald Eagles are known to winter in this area. The CPW guidelines indicate "No permitted, authorized, or human encroachment activities within ¼ mile (1320 feet, 400 meters) radius of an active night and/or communal roost from November 15 through March 15 if there is no direct line of sight between the roost and the activity. No permitted, authorized, or human encroachment activities within ½ mile (2640 feet, 800 meters) radius of an active night or communal roost from November 15 through March 15 if there is a direct line of sight between the roost and the activity."*
- *Formal Penstemon harringtonii surveys should be performed over a 3-5 year duration (due to irregular blooming habit) in the scrub habitat as specimens of this species were observed in this area during Jun-July 2024 surveys.*
- *Peregrine Falcon and foraging areas: As indicated in the CPW raptor protection recommendations, not only should the nest site be protected, "... attention should also focus on defining important foraging areas that support the pair's nesting effort. Hunting habitats of*

*many raptor species are extensive and may necessitate interagency cooperation to assure continued nest occupancy.*

- *Golden Eagle foraging areas:* A Golden Eagle reportedly perches in the dead tree near the west corner of the pasture of Area F for hunting/foraging.
- *Elk calving/mule deer fawning occurrences and duration.* Additional protections, such as closures to activities that have not historically occurred in these areas, should be considered to limit human disturbance to these wildlife species.

In CPW and USFS literature, recreation is repeatedly touted as one of the significant factors in impacting wildlife and habitat, which makes the proposed capacity and development footprint for this unique, nearly pristine area, full of varied and thriving wildlife so surprising. One of the protest signs readily observed in yards along Sweetwater Road and neighborhoods in Eagle and Garfield Counties says it best “Love it, but don’t Love it to Death”. This area has always been open to the public, but we don’t need to market for 100s of people to come every day.

*The data say we are loving the mountains and the wilderness to death. Researchers at Colorado State University reviewed 274 scientific articles published between 1981-2015 on the effects of recreation on a variety of animal species in all geographic areas and including all recreational activities. More than 93% of the articles reviewed indicated at least one impact that recreation had on animals, and the majority of the impact was found to be negative (<https://thetrek.co/examining-impact-overcrowding-hiking-trails/>).*

Even after the seasonal raptor protections are lifted, and permitted, authorized, or human encroachment activities resume August 1 through November 30, out of respect to the wildlife that use this area year-round, I respectfully request that capacity be maintained at historical levels of about 31 people/day. The development configuration should be in such a manner that avoid wildlife and their habitat so the visitor can experience and appreciate the serene wilderness, with a focus on respecting wildlife, with no added stress to the wildlife that thrive here and call this area home.

Keep Colorado Wild.

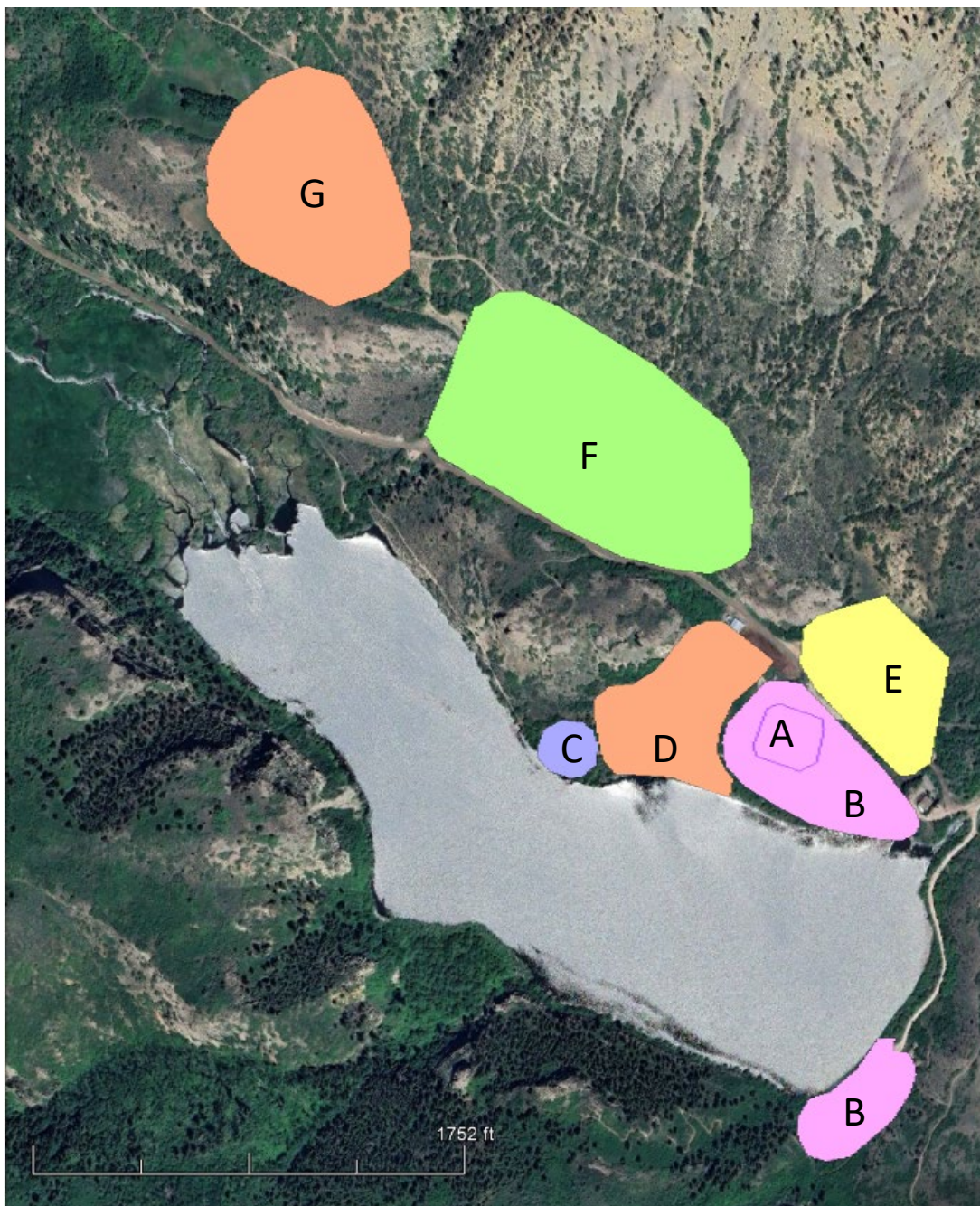
Sidenote about guidelines: I was helping Florida Fish and Wildlife regulatory and law enforcement on an issue many years ago. I asked how the guidelines were applied in regards to law enforcement. It was explained to me that the guidelines are there to protect the wildlife. If you follow the guidelines and a protected animal still gets accidentally injured or killed, then there will likely be no legal ramifications. If a protected animal gets injured or killed and the action was in violation of the guidelines, then it can be considered willful and there will be legal ramifications. In this situation, a landowner asked a construction company to clear an area that was occupied by a protected species. The protected species was known to be protected and they were visible on the property. Fish and Wildlife charged/prosecuted the individuals operating the machinery that impacted the species. The reasoning is that these contractors knew the species was present and proceeded anyway. Contractors cannot use the excuse that they were just doing what they were told.

If the CPW raptor guidelines are not followed and the result is either development activities and/or human activity disturb and cause the raptors to either leave the area, abandon the nest, or miss feedings

for themselves or feeding their young (considered harassment and illegal under the Migratory Bird Act Treaty), who will be monitoring? Who will be responsible and charged? Will it be an individual construction worker, tourist, or will it be the USFS and CPW for willfully creating the setting? Aside from protecting the wildlife, I hope USFS and CPW understand that it would not be fair to place individuals in this situation, and the CPW guidelines should be proactively applied in the development plan.

Again, regarding the CPW raptor protection guidelines, great appreciation goes out to the research effort that many individuals and agencies contributed to develop guidelines that will lead to a well thought out plan that will preserve and protect beautiful Sweetwater Lake and the wildlife that calls it home, now and for generations to come.

# ATTACHMENT A

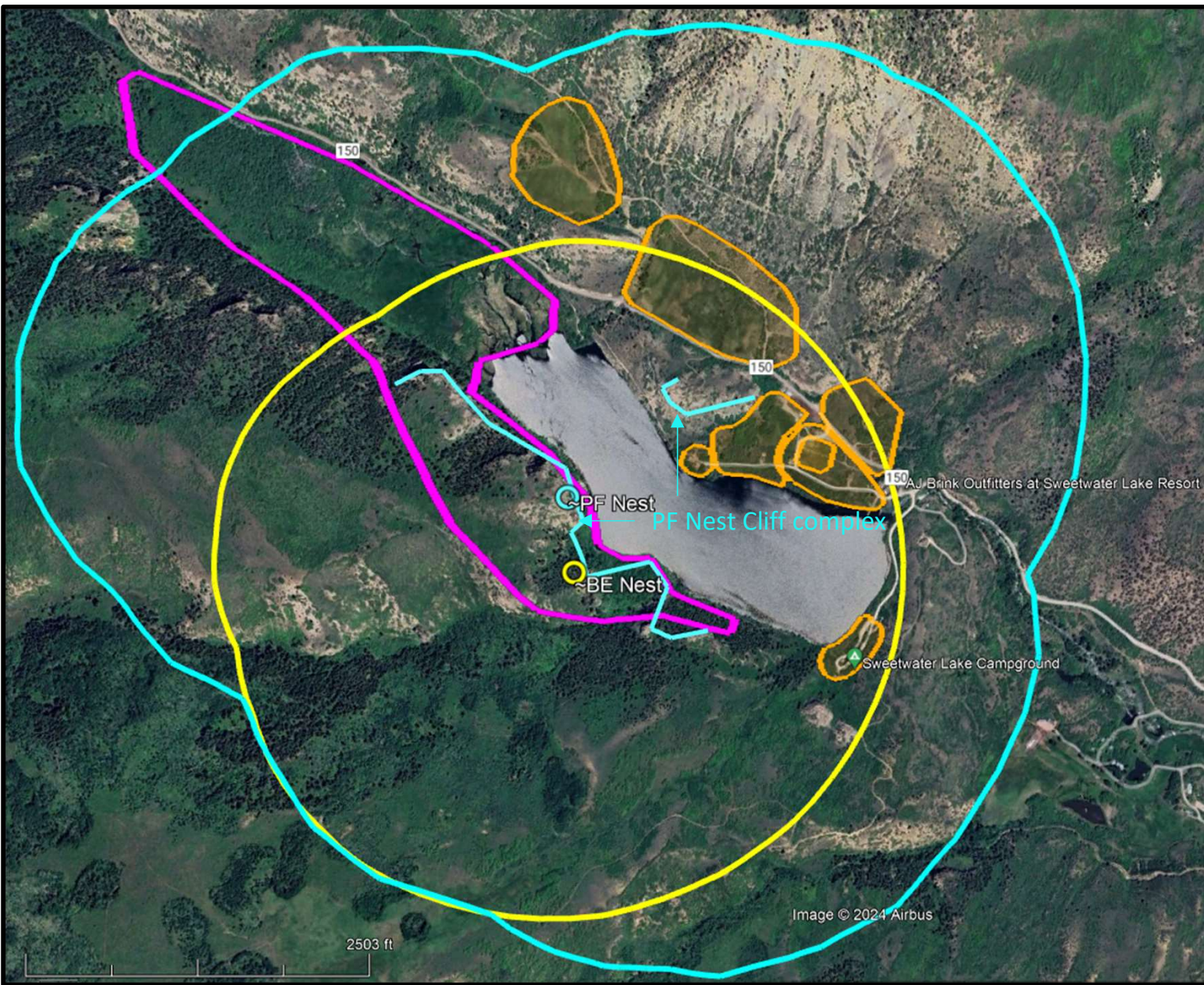



## S I T E A M E N I T I E S


- (A)** Sweetwater Lodge
  - Office Space
  - Conference Room / Classrooms
  - Small Store
  - Food Service
  - Customer Service
  - Restrooms
  - Interpretive Displays
  - Parking
    - 25 - 35 Car Spaces
    - 2-5 Trailer Spaces
- (B)** Day Use Parking
  - Vault Toilet
  - Picnic Area
  - Covered Shelter
  - Parking (30-40 Spaces)
- (C)** Interpretive / Education Area
  - Vault Toilet
  - Interpretive Signage
  - Parking (3-8 Spaces)
- (D)** Cabins (8-12)
  - Dry Cabins
  - Wet Cabins
- (E)** Administrative Area
  - Maintenance Building
  - Maintenance Yard
  - Employee Housing
  - Water Treatment Building
- (F)** Campground (15-20)
  - Trailer Campsites
  - Tent Campsites
  - Bath House
  - Dumpstation
- (G)** Equestrian Area
  - Barn
  - Corral
  - Vault Toilet
  - Horse Trailer Parking
  - Equestrian Campsites (4-7)
  - Trailhead Parking
  - Outfitter Housing
  - Parking
    - 12-18 Car Spaces
    - 6-10 Trailer Spaces
- (H)** Environmentally Sensitive Area

Figure 1: Recreation Infrastructure Plan Overlay on Google Earth©2024


Overlay margin of error estimated ~20 feet




 = Designated “environmentally sensitive area”

 = Proposed recreation infrastructure (campsites, administrative, parking, equestrian etc.)

CPW Raptor Protection:  
 “These guidelines were originally developed by Colorado Division of Wildlife in 2002 and updated in 2008. We recently (2020) undertook a periodic review of our guidelines to ensure that they are the most up to date based on the best available science and Professional judgement.

 = Bald Eagle 2640’ Nest Buffer: No permitted, authorized, or human encroachment activities Dec. 1 to July 31

 = Peregrine Falcon 2640’ Nest Area Cliff Complex Buffer: No surface occupancy (beyond which historically occurred) and No permitted, authorized, or human encroachment activities March 15 to July 31.

PF = Peregrine Falcon  
 BE = Bald Eagle

Figure 2: SWEETWATER RAPTOR PROTECTION per CPW’s “RECOMMENDED BUFFER ZONES AND SEASONAL RESTRICTIONS FOR COLORADO RAPTORS (2020)”

## **ATTACHMENT B**

**USFS Campground Use, Sweetwater Campground, 2016-1024**

**Date provided: July 17, 2024**

<b>Year</b>	<b>Total Nights Occupied</b>	<b>Total Nights Available</b>	<b>Occupancy Rate</b>
2016	358	1170	31%
2017			
2018	593	1170	51%
2019	353	1170	30%
2020	387	1170	33%
2021	688	1170	59%
2022	380	1764	22%
2023	307	1764	17%





**COLORADO**  
Department of Public  
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

January 25, 2017

ADRIENNE BRINK  
AJ BRINKS AT SWEETWATER RESORT - PWSID CO0223727  
3406 SWEETWATER LAKE ROAD  
GYPSUM, CO 81637

**Reclassification to Non-Public Water System**

Dear ADRIENNE BRINK:

On December 1, 2016, the Colorado Department of Public Health and Environment ("Department") notified AJ BRINKS AT SWEETWATER RESORT ("Supplier") that the Supplier's water system met the definition of a Transient, Non-Community (TNC) public water system based upon the Department's October 2, 2016 site visit, pursuant to the Colorado Primary Drinking Water Regulations ("Regulation 11"), 5 CCR 1002-11. On December 23, 2016, the Supplier submitted data from its reservation calendar. Based on the Supplier's data, the Supplier serves an average of 23 people during the Supplier's busiest 60 days. Therefore, the Supplier does not meet the definition of a Public Water System as stated in the Colorado Primary Drinking Water Regulations ("Regulation 11"), 5 CCR 1002-11.

Therefore, the Supplier is now classified as Non-Public since it has less than fifteen (15) service connections, and does not regularly serve an average of at least 25 individuals daily at least 60 days per year. **Please note that the Department must be notified if at any time the Supplier has at least fifteen (15) service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year.** The Department will follow up with the Supplier annually for population updates.

Please be advised, if the Supplier is supplying water to the public as part of its operation (such as a restaurant, child care, or school) alternate regulations for water may apply. For more information on regulations pertaining to those operations please visit [colorado.gov/cdphe](http://colorado.gov/cdphe) or contact your local health department.

If there are any questions regarding the contents of this letter and/or requirements for the Supplier, please contact Nicole Graziano by phone at 303.692.3258 or by email at [nicole.graziano@state.co.us](mailto:nicole.graziano@state.co.us).

ec:

ADRIENNE BRINK - AC  
YVONNE LONG - PUBLIC HEALTH DIRECTOR - GARFIELD COUNTY PUBLIC HEALTH AGENCY  
MORGAN HILL - ENVIRONMENTAL PROTECTION SPECIALIST SAFE DRINKING WATER - GARFIELD COUNTY PUBLIC HEALTH AGENCY

File: CO0223727, GARFIELD COUNTY, TRANSIENT, NON-COMMUNITY - GROUNDWATER



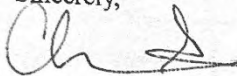
MIDCITIES ENTERPRISES, LLC  
680 ATCHISON WAY, #800  
CASTLE ROCK, CO 80134  
303-688-5620 (OFFICE)  
303-688-0731 (FAX)

June 29, 2007

Dear Adrienne,

We have put together a short form by month for you to fill out daily regarding vehicles parked at the locations described on the map enclosed. We would like to start this July 1<sup>st</sup>, 2007. I think it would be best if the observation was made for the parking lots at around noon or 1 each day and at the campground at 7 or 8 in the morning each day. If you feel this should be checked at different times please let me know. Please contact me with any questions.

Sincerely,



Christopher Miller



OCT  
March-08

	# OF VEHICLES CAMPED AT CAMP GROUND	Time of Day	# OF VEHICLES PARKED AT CAMP GROUND PARKING LOT	Time of Day	# OF VEHICLES PARKED AT PUBLIC PARKING AREA NEAR STABLES	Time of Day	# OF VEHICLES PARKED AT LOWER PARKING AREA	Time of Day
1	0		0		1		0	11:15
2	0		0		0		1	12:00
3	0		0		0		1	9:00
4	0		0		0		4	10:30
5	3		0		0		1	9:15
6	0		0		0		0	9:00
7	0		0		1		0	1:00
8	0		0		1		0	10:00
9	0		0		1		0	10:00
10	1		0		5		1	10:00
11	1		0		0		1	11:00
12	1		1		0		1	9:00
13	1		0		0		1	10:00
14	0		0		0		1	10:30
15	1		0		1		2	1:00
16	0		0		5		3	9:00
17	2 (1 ite)		0		4		3	9:00
18	7 (4 site)		1		6		3	9:00
19	5		0		5		3	9:00
20	4		0		5		4	10:00
21	4		0		5		3	10:00
22	3		0		5		3	10:00
23	2		0		4		3	10:00
24	1		1		3		0	10:00
25	1		2		3		0	10:00
26	2		0		1		0	10:00
27	2		0		1		0	10:00
28	2		0		1		0	10:00
29	0		0		1		0	11:00
30	0		0		3		1	10:00
31	0		0		5		1	9:15



Aug 08  
December 07

	# OF VEHICLES CAMPED AT CAMP GROUND	Time of Day	# OF VEHICLES PARKED AT CAMP GROUND PARKING LOT	Time of Day	# OF VEHICLES PARKED AT PUBLIC PARKING AREA NEAR STABLES	Time of Day	# OF VEHICLES PARKED AT LOWER PARKING AREA	Time of Day
1	1		0		13		1	10:30A
2	3		0		11		1	9AM
3	8		2		13		2	9:30A
4	3		0		5		2	10:30A
5	0		0		5		0	12N
6	0		0		5		0	9AM
7	0		1		5		0	5PM
8	3		1		5		0	11:30
9	6		0		5		0	9:00AM
10	8		1		1		0	9:00AM
11	0		2		1		3	9AM
12	1		1		1		3	9AM
13	1		2		1		1	10:30
14	2		0		1		1	10:30
15	2		0		2		0	2:00PM
16	7		0		2		1	9:30
17	6		0		2		1	9AM
18	0		0		1		0	2PM
19	1		0		0		0	9AM
20	0		0		0		0	10AM
21	0		0		0		0	9AM
22	2		0		2		2	10:45
23	5		0		0		2	9AM
24	7		0		2		2	9AM
25	1		1		1		0	9AM
26	2		0		0		0	1:30P
27	0		0		0		0	9AM
28	0		0		0		0	9AM
29	3		1		2		2	9AM
30	9 4 camp sites		0		3		2	12:45
31	8 4 camp sites		1		4		2	



November-07	# OF VEHICLES CAMPED AT CAMP GROUND	Time of Day	# OF VEHICLES PARKED AT CAMP GROUND PARKING LOT	Time of Day	# OF VEHICLES PARKED AT PUBLIC PARKING AREA NEAR STABLES	Time of Day	# OF VEHICLES PARKED AT LOWER PARKING AREA	Time of Day
1							4	2 PM
2					9		6	
3	7		0		5		8	
4	4		0					
5								
6	5	12:00	0	12:00	9	11:30		
7	5	2:30	1	2:30	7	2:00	3	2:00
8	4		0		5		3	12:30
9	3		0		4		3	
10	1		0				0	
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								
31								

*Resort closed*







August-07	# OF VEHICLES CAMPED AT CAMP GROUND	Time of Day	# OF VEHICLES PARKED AT CAMP GROUND PARKING LOT	Time of Day	# OF VEHICLES PARKED AT PUBLIC PARKING AREA NEAR STABLES	Time of Day	# OF VEHICLES PARKED AT LOWER PARKING AREA	Time of Day
1	0	7:55	0	2:45	11	2:50	1	3:00
2	0	7:30	0	2:50	9	2:55	3	3:15
3	1	8:10	1	3:05	12	3:00	7	2:45
4	8	8:15	0	12:45	14	1:10	8	12:20
5	3	8:00	2	8:00 12:45	15	12:40	1	12:55
6	1	8:00	0	1:55	3	2:00	3	1:15
7	3	7:30	0	4:35	4	4:00	0	12:55
8	2	8:05	0	1:00	7	12:55	0	12:00
9	1	8:15	0	2:00	6	2:00	-	
10	1	8:00	1 FOREST SERV	3:30	5	3:35	0	3:00
11	7	8:00	0	8 AM 4 PM	5	4:05	-	
12	7	7:30	0	7:30 12:40	7	12:45	1	12:50
13	2	8:00	0	12:30	0	12:35	0	12:40
14	3	7:50	0	12:45	0	12:40	2	12:35
15	2	7:00	1	2:00	1	2:05	1	3:30
16	4	8:00	0	2:00	0	2:05	3	2:15
17	4	8:05	0	2:25	4	2:30	2	12:30
18	4	8:10			2	4:00	1	12:15
19								
20	3	8:30	1	5:00	0	5:20	0	5:00
21	1	7:30	1	4:45	0	4:45	0	4:45
22	1	8:30	1	12:30	1	12:30	0	12:30
23	0	7:00A	0	6:30P	2	6:30P	0	6:30P
24	6	8:00A	1	2:10	2	2:10	1	2:10
25	8	7:20A	3	5:00P	2	4:30P	6	4:00P
26	8	7:30A	3	4:30P	3	3:30P	2	3:15P
27	4	9:20A	0	12:30P	2	12:30P	2	12:30P
28	1	8:30A	1	2:45P	2	2:50P	1	3:00P
29	1	8:40A	0	7:30P	1	7:15P	1	7:20P
30	1	7:30A	0	4:15P	2	1:00P	1	12:30P
31	1	8:15A	2	8:15A 2:15P	1	2:20P	2	2:30P

July-07

	# OF VEHICLES CAMPED AT CAMP GROUND	Time of Day	# OF VEHICLES PARKED AT CAMP GROUND PARKING LOT	Time of Day	# OF VEHICLES PARKED AT PUBLIC PARKING AREA NEAR STABLES	Time of Day	# OF VEHICLES PARKED AT LOWER PARKING AREA	Time of Day
1								
2								
3								
4	2	7:55	1	12:55	2	12:58	1	12:00
5	no vehicles 1 site occy	7:55	0	1:00	1	1:05	1	11:30
6	2	8:05	2	1:30	0	1:45	1 FS TRUCK	12:00
7	6	7:45	2	1:30	0	1:40	2	12:00
8	11	7:50	1	12:50	2	1:00	1	12:45
9	4 at 1 site	7:20	0	12:00	5	12:05	1	12:10
10	—		0	12:05	6	12:15	2	12:00
11	2 at 1 site	8:00	1	4:00	0	1:00	1	9AM
12	2 at 1 site	7:30	0	1:45	0	1:50	1	12:30
13	2 at 1 site	8:05	1	12:30	0	12:35	0	12:15
14	4	7:50	4	12:00	0	12:05	2	12:10
15	5 <sup>7</sup> at 1 site	7:50	3	12:15	3	12:05	2	12:00
16	2	8:15	0	12:45	1	12:50	2	12:15
17	1	7:45	0	1:00	4 OVERNIGHT 4	7:44 12:55	1	12:00
18	0	7:55	2	2:35	4 OVERNIGHT 4	2:15	2	12:15
19	2	7:25	0	1:30	4 OVERNIGHT 4	1:20	3	1:15
20	4	8:15	0	2:45	1	2:45	2	12:00
21	10	7:45	1	7:45 1:20	0	1:25	2	1:30
22	8	8:05	0	12:10	4	8:05 12:15	1	12:30
23	1 at 1 site 1 camp site	7:25	1	1:00	0	1:15	1	1:00
24	2	8:20	0	1:00	2	1:10	1	12:00
25	0	8:10	1	1:15	0	1:20	3	1:20
26	0 vehicles 1 tent	8:15	0	12:05	2	12:00	1	12:15
27	0	8:10	0	12:10	0	12:15	3	12:15
28	7	8:10	2 0	8:10AM 1:30	1	1:30	1	1:00
29	5	8:05	2 0	8:05 1:45	1	1:15	2	12:05
30	2	7:55	0	12:10	1	12:15	0	12:30
31	1	8:15	0	12:00	0	12:05	0	12:10