

**Written/Fax/E-mail Comments, Public Hearings on
11/7/07 Revised Proposed Rule for the Preble's Meadow
Jumping Mouse**

Updated 2/14/08

1	Index	
2	Dave Freudenthal Governor, State of Wyoming	Cheyenne, Wyoming
3	Thomas P. Nestler Colorado Division of Wildlife	Denver, Colorado
4	Vickie Brach USFS, South Park Ranger District	Fairplay, Colorado
5	Ellen Hodges USFS, Canyon Lakes Ranger District	Fort Collins, Colorado
6	Thomas A. Florich USFS, Laramie Ranger District	Laramie, Wyoming
7	Joe Reichardt Platte County Board of Commissioners	Wheatland, Wyoming
8	Cheryl Matthews Douglas County Open Space and Natural Resources	Castle Rock, Colorado
9	Dennis Hisey El Paso County Board of County Commissioners	Colorado Springs, Colorado
10	Bob Crifasi City of Boulder, OS&MP	Boulder, Colorado
11	John A. Kolan City of Greeley	Greeley, Colorado
12	Rod Kuharich South Metro Water Supply Authority	Greenwood Village, Colorado
13	Don Britton Wheatland Irrigation District	Wheatland, Wyoming
14	Ken Hamilton Wyoming Farm Bureau Federation	Laramie, Wyoming

15	Tom Partin American Forest Research Council	Portland, Oregon
16	Ronald W. Opsahl Mountain States Legal Foundation	Lakewood, Colorado
17	Erin Robertson Center for Native Ecosystems	Denver, Colorado
18	Wm. Robert Irwin Defenders of Wildlife Andrew E. Wetzer Natural Resources Defense Council Michael J. Bean Environmental Defense Jason Patlis World Wildlife Fund	
19	Pauline P. Reetz Audubon Society of Greater Denver Kent Holsinger Holsinger Law, LLC	Littleton, Colorado
20	*Rescanned Documents/ New CD for Adjustments this only A-G; I-U; W-Y Holsinger Bob L. Ingels	Denver, Colorado
21	Housing and Building Association of Colorado Springs	Colorado Springs, Colorado
22	Jack Ekstrom Western Business Roundtable	Golden Colorado
23	David L. True True Ranches, LLC	Casper, Wyoming
24	Jack Saunders Saunders Company	Leadville, Colorado
25	William E. Gurski (1/08 FAX) KEM Homes	Fort Collins, Colorado
26	Rob Roy Ramey II	Nederland, Colorado
27	Kenneth R. Faux Jr.	Greenwood Village, Colorado
28	Jack Rick	
29	Howard Lind	Monument, Colorado

30	Coleen P. Abeyta	Colorado Springs, Colorado
31	Jane Rogers	Colorado Springs, Colorado
32	Ron and Mary Kunzelman	Colorado Springs, Colorado
33	Tom Nettles	
34	Michael and Claudette Stella	
35	Susan Majors	
36	Rata Clarke	
37	Mitchell Baldwin	
38	Marc Stein	Colorado Springs, Colorado
39	Martin Wolf	Colorado Springs, Colorado
40	Pete and May Weston	
41	Steve Tottosy	Colorado Springs, Colorado
42	Robert Hoff	Colorado Springs, Colorado
43	Doren Tenerowicz	Castle Rock, Colorado
44	Zachary Barr	Denver, Colorado
45	Gene Shannon	
46	Harvey Huston	Colorado Springs, Colorado
47	Pat Wells	Manitou Springs, Colorado

48	Dan Bjugstad	Colorado Springs, Colorado
49	Gerald and Marsh Federer	Cheyenne, Wyoming
50	Snookie Fatiuk	Colorado Springs, Colorado
51	Larry Banister1	Castle Rock, Colorado
52	Larry Banister2	Colorado Springs, Colorado
53	Patricia A. Smith	Colorado Springs, Colorado
54	Liz Klein	
55	12/10/07 Public Hearing	Lakewood, Colorado
56	12/12/07 Public Hearing	Wheatland, Wyoming

January 18, 2008

Ms. Susan Linner
Field Supervisor
Colorado Field Office
Ecological Services
U.S. Fish and Wildlife Service
P.O. Box 25486, MS-65412
Denver Federal Center
Denver, CO 80225

Dear Ms. Linner:

The Board of Directors of the Housing & Building Association of Colorado Springs is writing to oppose the U.S. Fish and Wildlife Service ("Service") Revised Proposed Rule to delist the Preble's Meadow Jumping Mouse ("Preble's") in Wyoming, but not in Colorado. Our issues with the delisting are enumerated below but the bottom line is that the Service should delist this common mouse in both Colorado and Wyoming.

Threatened Species Classification: The USFWS listed Preble's as threatened in 1998 based on two basic propositions: (1) Preble's was physically distinct from other subspecies of meadow jumping mice; and (2) Preble's populations had declined over a significant portion of its range. Both of these have proven to be false.

Historically, the Preble's was found in 14 hydrologic units in eastern Colorado and southeastern Wyoming. When it was listed, the FWS could find the mouse in only nine hydrologic units. Since the listing, the mouse has been found in 17 hydrologic units, including all that were historically occupied and three where it had never been known to occur.

More populations of the mouse are now known to exist than at any time before. And, as the USGS has stated, "it is likely that habitat suitable for *Z. hudsonius* (meadow jumping mice) is becoming increasingly available across western parts of the Great Plains with the westward expansion of riparian forests and mixed-grass prairie." (Cryan 2005) (Emphasis added). At the time of listing, the mouse was documented at only 29 sites. Today, it has been found at no fewer than 132 sites.

Additional survey work on the mouse resulted in the discovery of significant additional populations and has greatly expanded the documented distribution of the Preble's. Distribution, abundance and trends data on the mouse demonstrates ample populations throughout an expansive range. Even if the mouse was a valid subspecies, the alleged threats to the species do not occur over a significant portion of its range. Figure 1 to the Revised Rule demonstrates hundreds of confirmed locations and efforts to trap Preble's in Colorado and Wyoming.



Subspecies: We have serious questions about how the USFWS identifies this so-called subspecies of mouse. Does USFWS rely upon an elevation to distinguish between Preble's and other mice? We understand the USFWS counts mice found about 6700 feet in elevation as western jumping mice, but mice found below 6700 feet as Preble's. How does the USFWS confirm these identifications? Does the USFWS kill every mouse it catches and measure the inside of its skull? Or is it teeth-folds that the USFWS is so confident about? Genetics? The USFWS and its SEI Panel recognized that classification of Preble's by genetics was a matter of some dispute. If genetics are in dispute, is Preble's a different color than other mice? Is it larger? Is it smaller? Does its coat appear differently? If even the USFWS cannot tell a Preble's from another so-called subspecies, or even from other species of mice, then why is it listed under the Endangered Species Act?

Habitat Range: The Service arbitrarily characterizes Colorado as a significant portion of the range of this common mouse, but goes on to define "significant portion of the range" as characterized by high-quality habitat that make it less susceptible to threats. If Colorado habitat is of higher quality than that in Wyoming, then the Service should delist in Colorado. How can the mice tell where the state line is? Is the Service going to tell them? Will signs be posted? How can the Service support its characterization of reported increases in Preble's sites in Wyoming as increases in population and range, yet refer to increases in sites reported in Colorado as an "improvement in our understanding?" See 72 Fed. Reg. 62992, 62998.

Why does the Service reference the number of sites now documented in Wyoming, but fail to reference the number of sites now documented in Colorado? Why does the Service state that 80% of trapping efforts in Colorado fail, but fail to state what percent of trapping efforts in Wyoming fail? Is trapping more successful in one state than the other? If so, what procedures may distinguish trapping in Colorado versus Wyoming? Are the same consultants used? Are the same consultants using the same procedures? There are probably many more sites required to trap in Colorado due to the higher development activity.

Are Preble's different in Wyoming than Colorado? If so, how? How does the FWS distinguish Preble's from other so-called subspecies or species of mice?

If the Service can tell a difference between Preble's status in Colorado and Wyoming, why not distinguish this rodent between counties, between towns or between neighborhoods? Why doesn't the Service listen to both the states of Colorado and Wyoming and delist this common rodent? Surely, there are more important things to spend time and resources on than this.

Genetics and Expert Credibility: The process followed by the Agency in utilizing experts is somewhat suspect and creates a number of questions that need to be addressed by the agency. Why did you base a proposed delisting on genetics and then attack the scientist you enlisted for this work by hiring other scientists at the taxpayers' expense to



HOUSING & BUILDING ASSOCIATION

4585 Hilton Parkway, Suite 100
Colorado Springs, CO 80907

p: 719-592-1800
f: 719-260-8398

attack his credibility? Why did you ignore the majority of the petitions filed to delist and focus only on the genetics in your proposed rule?

Why did you choose reviewers that make money consulting on this, or other, mice? Or academics that receive research funding for their work on specious subspecies of one kind or another?

The only answer to these questions that withstands any scrutiny is that science, data and public input are irrelevant so long as this common mouse remains listed under the Endangered Species Act. I hope you'll consider what your actions here will do to the credibility of the Endangered Species Act and your agency: both of which could be salvaged by delisting this mouse in Wyoming and Colorado.

Sincerely,



Bobby L. Ingels, President
Housing & Building Association of Colorado Springs



January 17, 2008

Ms. Susan Linner
Field Supervisor
Colorado Field Office
Ecological Services
U.S. Fish and Wildlife Service
P.O. Box 25486, MS-65412
Denver Federal Center
Denver, CO 80225

Re: Comments on Revised Proposed Rule To Amend the Listing for the Preble's Meadow Jumping Mouse (72 Federal Register 62992, November 7, 2007)

Dear Ms. Linner:

On behalf of the multi-sector members of the Western Business Roundtable ("The Roundtable"), I am writing to express substantive and procedural concerns regarding the U.S. Fish and Wildlife Service's (FWS) pending revised proposed rule to list the Preble's Meadow Jumping Mouse under the Endangered Species Act. *(72 Federal Register 62992, November 7, 2007)*

It has come to our attention that a key reference cited by the U.S. Fish and Wildlife Service (FWS) in support of the Revised Rule is not within the possession of the FWS, let alone available for public review. Clearly, this leaves the legitimacy of any listing decision in doubt and raises serious questions about the FWS' procedural process relative to this proposed listing.

Specifically, the FWS references King et al. (in review) in the Revised Rule as one of the scientific underpinnings supporting its proposed continued listing of the Preble's mouse. We understand that public requests to the Colorado Field Office for copies of King et al. (in review) have been unsuccessful. Staff apparently reports that the author has not released this data and suggests that it may be obtained from the U.S. Geological Survey by the Freedom of Information Act (FOIA).

The comment deadline on the Revised Rule of January 22, 2008 will have long passed by the time the public could FOIA for this information. That FWS would use information it does not even have in its possession to support the continued listing of this rodent is unthinkable. That all avenues for public access to that information are frustrated, at least beyond the period of public comment for this listing rulemaking, is unconscionable.

Western Business Roundtable | 350 Indiana Street, #640 | Golden, Colo. 80401 | 303-384-9911 | f: 303-496-0334
info@westernroundtable.com | www.westernroundtable.com

The opinions expressed in this letter represent the views of a majority of Roundtable Members, but not necessarily all of our members.

Given the tremendous economic impacts to from this listing, and the controversy that has surrounded the delisting process, we urge you to revoke the Revised Rule and proceed with delisting Preble's in both Colorado and Wyoming. At the very least, we believe that the FWS has an obligation to defer any further action on this matter until the Service has secured the King et al. data, actually reviewed it and released it to the public for meaningful review and comment.

Sincerely,



Jack Ekstrom
Chairman
Board of Trustees
Western Business Roundtable

cc: President Bush
Vice President Cheney
DOE Secretary Samuel Bodman
U.S. Environmental Protection Agency
House Energy and Commerce Committee Members
House Resources Committee Members
Senate Energy and Natural Resource Committee Members
Senate Environment and Public Works Committee Members
Western Congressional Delegations
Western Governors
American Legislative Exchange Council
Western State Legislators
Counsel of State Governments – West
Western State County Commissioners

The Roundtable is a non-profit business trade association comprised of CEOs and senior executives of organizations doing business in the Western United States. Our member companies are involved in a broad range of industries, including agricultural products, accounting, chemicals, coal, construction and construction materials, conventional and renewable energy production, energy services, engineering, financial services, internet technologies, manufacturing, mining, oil and gas, pharmaceuticals, pipelines, telecommunications, and public and investor-owned utilities. We work for a common sense, balanced approach to economic development and environmental conservation, and we support public policies that encourage economic growth, opportunity and freedom of enterprise.

RECEIVED
DEC 26 2007

TRUE RANCHES LLC

455 NORTH POPLAR STREET

P.O. BOX 2360
CASPER, WY 82602
(307) 237-9301
FAX (307) 266-0373

December 17, 2007

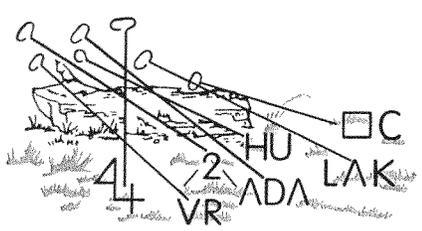
Susan Linner
US Fish and Wildlife Service
CFO Ecological Services
PO Box 25485
MS-65412
Denver Federal Center
Denver, CO 80228

RE: Endangered and Threatened Wildlife and Plants; Revised Proposal to Amend Listing for the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) to Specify Over What Portion of Its Range the Subspecies is Threatened.

Dear Ms Linner,

True Ranches appreciates this opportunity to comment on the referenced proposal to amend the listing of the Preble's Meadow Jumping Mouse (PMJM). We are disappointed it has taken this long to get to this point but are pleased that the distribution, abundance and threats information provided since 1999 has finally been analyzed and acknowledged by the Service. This data demonstrates that not only is the mouse still found in all the historical capture sites it is now known from more locations in Wyoming than ever before. We support the proposed amendment which will remove the Wyoming portion of the range of the subspecies from the listing.

The tremendous amount of trapping effort that has been undertaken in Colorado has also identified significantly more occupied habitat than known at the time of listing, even though some historical sites appear to have been lost. Given the additional data for the Colorado significant portion of the range (SPR) we question the need to maintain the listing for any portion of the subspecies range. We recognize that the current propose rule amendment does not include such an option and suggest that following action on the current proposal the Colorado question should be addressed. That said we have the following specific comments to the referenced proposal.



RANCHES
DOUBLE FOUR
Wheatland
ROCK RIVER
Rock River
ADA
Cheyenne

1

LAK
Newcastle
Chalk Bluffs
Cheyenne
VR
Glenrock
HU
Iron Mountain

FARMS
Wheatland
Newcastle
FEEDLOTS
Wheatland
Newcastle

Pg. 63017: ***“Trapping efforts to date suggest that the subspecies may remain limited in number and distribution within the Wyoming Portion of the South Platte River basin.”***

We agree that there is no information available to suggest the Preble's was ever common in this area, indeed the genetics for this area appear to be unclear. For this reason, and the acknowledgement of the lack of future threats to the species in Wyoming, the Service should use the Wyoming/Colorado boarder as the line for demarking the management of the mouse.

Pg. 63017: ***“We determine this because distributional data has verified that the subspecies is more widespread in the North Platte River basin of Wyoming than previously known, and we are not aware of any threats that are likely to have significant affects on the long-term conservation status of populations of Preble's meadow jumping mouse in Wyoming.”***

“We believe a lack of present or threatened impacts to the Preble's meadow jumping mouse in Wyoming suggest that this subspecies is neither in danger of extinction, nor likely to become endangered within the foreseeable future.”

“Thus, the Preble's meadow jumping mouse does not merit continued listing as threatened throughout “all” of its range.”

We agree with the Service on the above findings.

Pg. 63018: ***“We believe the Wyoming/Colorado State line is an appropriate delineation for separating the populations in the two States here because the respective threats to the subspecies appear to be significantly different in the two states.”***

“We believe removing protections in the Wyoming portion of the South Platte River basin would be of little biological consequence.”

We agree that the listing should be amended to drop the Wyoming portion of the range from the rule, but we question the need to maintain the listing in Colorado. Given that the proposal in-hand is to maintain the listing in Colorado, we agree with the Service that the Wyoming/Colorado boarder would be an appropriate line for demarking the management of the mouse biologically and from the perspective of management practicability. Even with the anticipated growth of the Cheyenne, WY area the threats to the species are not as great as those anticipated along the Colorado Front Range, in addition, there is no information available to suggest the Preble's was ever common in the area. This is the area of greatest presumed overlap of Princeps and Preble's based on limited identification of either species. Any management benefit to the subspecies would be overwhelmed by the confounding regulatory process if the Wyoming portion of the South Platte River basin continued to be protected.

Pg. 163018: ***“Another possibility to consider is whether smaller units might be appropriate.”***

From the perspective of the continued stability of the subspecies and from the stand point of effectively administering the program and it makes no sense to

subdivide the range of the mouse in Colorado into drainages or counties. Trapping data from both Colorado and Wyoming demonstrates the importance of connectivity of areas of suitable habitat within a hydrologic unit to the stability of the subspecies. We support the separation of the range into two significant portions (Wyoming and Colorado) based on the division that is seen in the subspecies range data and the lack of certainty that the subspecies actually exists in the northern end of the South Platte River basin.

“Given the best scientific and commercial information available, we do not believe such subdivisions would result in units that would each meaningfully contribute to the representation, resiliency, or redundancy of the subspecies at a level such that its loss would result in a decrease in the ability to conserve the subspecies.”

We believe the Service intended this statement to read *“Given the best scientific and commercial information available, we do not believe such subdivisions would result in units that would each meaningfully contribute to the representation, resiliency, or redundancy of the subspecies. The loss of the subspecies in these individual units would result in a decrease in the ability to conserve the subspecies.”* This statement is supported by the quote for the draft Recovery Plan found on pg. 63019, “Species well-distributed across their historical range are less susceptible to extinction and more likely to reach recovery than species confined to a small portion of their range. Distributing populations throughout different drainages reduces the risk that a large portion of the range-wide population will be negatively affected by any particular natural or anthropogenic event at any one time.”

Pg. 163019: ***“In our view, the cumulative magnitude of threat within Colorado is very high. Immediacy will vary geographically across the range. Some areas will be subject to imminent threats that would, in the absence of the Act’s protections, extirpate populations in the near future. In other areas, direct and indirect impacts, in the absence of the Act’s protections, will not result in extirpation for some time.”***

The above statement describes the difference between the threats to the mouse in Wyoming vs. Colorado and why the state line is an appropriate demarcation for amending the listing.

Pg. 163022: ***“However, this is our first proposal to specify such a portion since issuance of the opinion of the Solicitor’s Office on this topic...”***

The Service has proposed a determination of the significant portion of the range in which the Preble’s Meadow Jumping Mouse is threatened that makes logical sense based on the presumption that the mouse is threatened in Colorado. We continue to question the logic of listing a species or subspecies based on a very limited number of historical captures and extremely limited information as was done when the subspecies was listed in 1998. In the State of Colorado, as in the State of Wyoming, trapping effort by private parties, the Colorado Department of Wildlife, the Department of Defense and others has demonstrated the range of

the subspecies and the populations to be significantly greater than previously known. If this same level of information had been known when the subspecies was petitioned for listing would the Service have listed it as threatened? If the answer to that question is "no" then the Service should de-list the subspecies in its entirety not just in the Wyoming portion of the range.

Pg. 163022: ***Specifically stated issues:***

(4) "Is it appropriate to use the Colorado/Wyoming border to divide the range of the subspecies?"

Given the information known about the mouse and the lack of confidence in the data relative to the existence of Preble's in the area adjacent to the Colorado/Wyoming border it is appropriate to use the state line as the boundary between the two significant portions of the range of the Preble's. This is especially appropriate given the retention by the Service of the ability to analyze the impacts of proposed land use projects on the north side of the line (and within the South Platte River HUC) on the mouse population on the south side.

(5) "If we use a relatively coarse scale to define the current range of the subspecies, how should we address an area with that range if we have information suggesting that the subspecies does not currently occupy or has never actually occupied – that particular area within its overall range?"

The intermediate scale definition of the SPR is appropriate for the continued listing of the subspecies in Colorado especially given the administrative procedures in place to provide clearances from the implementation of the rule.

(6) "If we determine to define the portion of the range ... as excluded..., how should we do that?"

Assuming that Wyoming is excluded from the range of the threatened subspecies, narrative descriptions of additional excluded areas could be very difficult to write and to interpret accurately and could change over time resulting in the need to continually update the rule. It is more appropriate for the proponent of a project within the defined SPR to inquire of the Service the status of a particular parcel of land and obtain a no action required letter from the Service. For this process to work a timely response to such inquiries would be required from the Service.

(7) "Is it appropriate to aggregate all of the current range of the Preble's meadow jumping mouse in Colorado into one portion for the purposes of this analysis? If particular sites within Colorado are not independently significant portions of the range of the PMJM, should they still be considered part of the portion of the range that is collectively significant?"

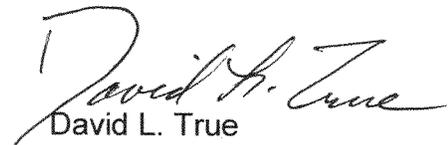
Yes. It is not logical to consider each individual HUC on its own merits; it is the collective occupied habitat that provides the viability of the subspecies. The statement on page 163018, "Given the best scientific and commercial information available, we do not believe such subdivisions would result in units that would each meaningfully contribute to the representation, resiliency, or

redundancy of the subspecies. The loss of the subspecies in these individual units would result in a decrease in the ability to conserve the subspecies," provides adequate justification for not using smaller analysis units.

Again, we ask the Service to compare the body of information known today regarding the distribution of the PMJM in Colorado with the paucity of data available at the time of listing and to reconsider the original listing decision. Given the 2007 data would the Service have listed the PMJM? If the answer to that question is "No" then the Service should issue a subsequent proposal to de-list the subspecies in Colorado.

Thank you for the opportunity to provide comment on the current proposal, we urge the Service to adopt the proposed rule as written.

Sincerely,


David L. True
Member, True Ranches LLC

TRUE

RECEIVED
JAN - 8 2008



P.O. BOX 1180 - LEADVILLE, COLORADO 80461
(719) 486-3800

January 7, 2008

Ms. Susan Linner
Field Supervisor
Colorado Field Office
Ecological Services
U.S. Fish and Wildlife Service
P.O. Box 25486, MS-65412
Denver Federal Center
Denver, CO 80225

Dear Ms. Linner:

I am writing to commend the Revised Proposed Rule to delist the Preble's Meadow Jumping Mouse in Wyoming. However, I encourage the same rule for Colorado. It's rather incredulous that a political boundary could make such a difference. It makes me suspicious that politics rather than science is at play here. Imagine that!

Thank you for your consideration.

Sincerely,


Jack Saunders

January 8, 2008

RECEIVED
JAN 10 2008

Ms. Susan Linner
Field Supervisor
Colorado Field Office
Ecological Services
U.S. Fish and Wildlife Service
P.O. Box 25486, MS-65412
Denver Federal Center
Denver, CO 80225
Fax: 303-236-4005

RE: Preble's Mouse Comments

Dear Ms. Linner:

I am writing in regards to the U.S. Fish and Wildlife Service ("USFWS") Revised Proposed Rule to delist the Preble's Meadow Jumping Mouse ("Preble's") in Wyoming only under the Endangered Species Act (ESA). Why aren't they being delisted in Colorado?

I have serious questions about how the USFWS identifies this so-called subspecies of mouse. Does USFWS rely upon an **elevation** to distinguish between Preble's and other mice? I understand the USFWS counts mice found about 6700 feet in elevation as western jumping mice, but mice found below 6700 feet as Preble's. How does the USFWS confirm these identifications? Does the USFWS kill every mouse it catches and measure the inside of its skull? Or is it teeth-folds that the USFWS is so confident about? Genetics? The USFWS and its SEI Panel recognized that classification of Preble's by genetics was a matter of some dispute. If genetics are in dispute, is Preble's a different color than other mice? Is it larger? Is it smaller? Does it coat appear differently?

As a graduate of CSU, with a degree in biology, I can recognize that your scientific method process of identification is lacking in common sense. You should see that this mouse is of one species, not two. Therefore, it should be delisted in Colorado. There are plenty of what I would reclassify as the "Preble's Western Jumping Mouse"!

If even the USFWS cannot tell a Preble's from another so-called subspecies, or even from other species of mice, then why is it listed under the Endangered Species Act? I urge you to delist in both Colorado and Wyoming.

Sincerely,



William E. Gurski

WEG/clo

KEM

HOMES

Pride in Quality