

Finding of No Significant Impact Designation of Critical Habitat for the Preble's Meadow Jumping Mouse

The U.S. Fish and Wildlife Service is designating critical habitat for the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) pursuant to section 4 of the Endangered Species Act of 1973, as amended (Act). The designation encompasses 8 critical habitat units including streams, riparian habitat, and associated upland habitat totaling approximately 23,744 acres (9,605 hectares) along 359.2 stream miles (578.1 kilometers) in Colorado and Wyoming. The designated critical habitat includes Federal and non-Federal lands.

We have analyzed three alternatives to the agency action, including—No Action, Designation as Identified in the Final Rule, Designation in Colorado Only, and Designation in Wyoming Only. Two additional alternatives were considered, then rejected. The Service has developed an Environmental Assessment for the designation of critical habitat for the Preble's meadow jumping mouse which analyzes each of these alternatives and the action alternative. Additionally, the potential economic impacts of critical habitat designation were evaluated in the Draft Economic Analysis and its Addendum (included as appendices to the Environmental Assessment).

Section 7 of the Act requires Federal agencies to ensure, through consultation with the Service, that actions they fund, authorize, or carry out will not likely jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as “a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to: alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.”

Our Environmental Assessment recognizes the difficulty in differentiating between section 7 consultations that result from the listing of the species (i.e., jeopardy) and consultations that result from the presence of critical habitat (i.e., adverse modification). By quantifying the potential impacts associated with all future section 7 impacts in or near proposed critical habitat, the analysis ensures that any critical habitat impacts that may occur co-extensively with the listing of the species are not overlooked. As a result, the analysis likely overstates the regulatory activity under section 7 attributable to designation of critical habitat.

Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve or other conservation area. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not result in any regulatory requirement for these actions.

The Proposed Action has been determined to have either no impact or only minimal, unquantifiable impacts to all nearly all elements of the human environment. The Service was able to identify some quantifiable economic impacts to certain components of the human environment. However, as discussed above, these estimates are the total section 7 consultation costs, which include costs attributable to both listing and critical habitat designation. Therefore, the economic costs provided in our analysis likely overstate the cost of critical habitat designation. As identified in our analysis, the potential costs of section 7 associated with both the listing and designation of critical habitat for the Preble's are estimated to range from \$79,000,000 to \$183,000,000 over the next ten years.

It should also be noted that the costs identified in the Draft Economic Analysis and its Addendum were developed based upon inclusion of all proposed critical habitat. The final critical habitat designation does not include many areas in the original proposal. All of NP2, NP4, NP5, SP2, SP3, SP7, SP8, SP9, SP11, SP12, and A1 have been removed, as have smaller portions of other units. As stated in the draft economic Analysis and its Addendum, over 70 percent of the costs of the designation was expected to occur in units SP 12 and A1. Since those units have been removed from the designation, the total coextensive section 7 costs provided in the Draft Economic Analysis and its Addendum, as well as in the following discussion, likely overestimate the costs of critical habitat designation by a significant amount.

While the total economic costs associated with section 7 implementation for the Preble's in the critical habitat areas initially proposed appear high, they must be considered in the context of the value of the economic activity that is predicted to occur over the next ten years in the region. In Colorado, where most of the costs associated with the designation are expected to occur, annual economic activity exceeded \$64 billion in 2000. In Wyoming, the annual value of economic activity in 2000 approached \$4 billion. Thus, the estimated upper-bound of annual present value costs associated with the listing and proposed critical habitat designation for the PMJM (\$18 million) represents less than three-hundredths of one percent of the total value of annual economic activity in this area.

Additionally, it should be noted that CEQ NEPA regulations (40 C.F.R.1508.14) indicate that "economic and social effects are not intended by themselves to require preparation of an environmental impact statement."

This designation has been coordinated with all interested and/or affected parties. Parties contacted include—Federal agencies, State government, local government, and private interests. A draft Environmental Assessment was made available to all interested and/or affected parties on January 28, 2003, for a 30-day public comment period. All comments received were analyzed and, where appropriate, were incorporated into the final Environmental Assessment, final Addendum to the Economic Analysis, and/or the Final Rule.

Based on a review and evaluation of the information contained in the Environmental Assessment, it is my determination that the designation of critical habitat for the Preble's meadow jumping

mouse does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). As such, an Environmental Impact Statement is not required.

Ralph Morgenweck
Regional Director, Region 6

Date