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LAWSUIT ATTACKS LOSS OF HABITAT

Government agency's choices for 55 species are questioned

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Northern El Paso County, home to the threatened Preble's meadow jumping mouse, was improperly left off a list of the mouse's critical habitat, a conservation group says.

The Center for Biological Diversity has announced plans to sue the U.S. Fish and Wildlife Service over decisions affecting 55 threatened and endangered species, including the tiny mouse that lives only along streams on the Front Range of Colorado and Wyoming.

The shy, nocturnal rodent, which has a long tail and a dark stripe down the middle of its back, can leap 18 inches into the air. Its habitat has been decimated by development on the Front Range, and it was declared threatened in 1998.

At issue is the agency's 2003 decision to cut the proposed critical habitat area from 57,446 acres to 31,222. In El Paso County, 3,110 acres to the north, east and south of the Air Force Academy were removed from the final listing. Another 12,545 acres in Douglas County were also removed.

Much of the would-be protected area in northern El Paso County is near Interstate 25 and ripe for development.

The Tucson, Ariz.-based environmental group wants the Fish and Wildlife Service to restart the process of designating critical habitat.

A critical habitat designation means a federal agency, or any project receiving federal funding or requiring a federal permit, can't harm the species or its habitat. Under the original plan, land within 360 feet of eight northern El Paso County streams would have been included.

The Center for Biological Diversity last week notified the Fish and Wildlife Service of its intent to sue, saying political influence by Department of Interior officials was present in decisions on species protection.

The center's policy director, Kieran Suckling, said mouse habitat is rapidly disappearing in El Paso, Douglas and Boulder counties.

"We'll have a situation where the Preble's meadow jumping mouse is stuck on the endangered species list forever because the habitat needed for it to recover is gone forever," Suckling said.

Fish and Wildlife Service officials say the additional critical habitat designation is unnecessary, because the Endangered Species Act already requires that any development assess the impact on endangered species and mitigate it.

Suckling, though, said there are key differences between the two levels of protection. While a developer must mitigate damage done to a listed species' habitat, critical habitat can't be destroyed, he said.

He said that means developers are less likely to pursue projects in such areas and that officials impose more stringent standards on development.

Of the 55 species to be included in the lawsuit, the government removed critical habitat from 44 — a total of 8.7 million acres. It also removed one animal from the endangered species list, refused to put three on the list and proposed to downgrade or remove protection for seven others, according to the intent to sue notice.

For the Preble's mouse, it could be a moot argument, anyway.

The Fish and Wildlife Service is reviewing the decision of former deputy assistant secretary Julie MacDonald in 2005 to take the mouse off the threatened species list.

Agency spokeswoman Diane Katzenberger said a decision will be made by the end of October. Restrictions to protect the mouse remain in place until a final decision is made.

Officials in El Paso County and Colorado Springs, meanwhile, are drawing up a conservation plan for the mouse, which will be submitted to county commissioners and City Council this fall. If approved by the Fish and Wildlife Service, protection of the mouse would be taken up at the local level — unless it were removed from the threatened species list.

The only other Colorado species included in the pending lawsuit is the Southwestern willow flycatcher, an endangered bird. Though the Fish and Wildlife Service originally proposed to designate 376,095 acres as critical habitat, including parts of Costilla, Conejos, Alamosa and Rio Grande counties in Colorado, the final decision designated 120,824 acres, none in Colorado.

According to the conservation group, the lawsuit would be the largest legal challenge ever to decisions made under the Endangered Species Act.