United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

In Reply Refer To:
FWS/AEA/033829

NOV 23 2007

The Honorable Nick J. Rahall, II
Chairman
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your interest in the U.S. Fish and Wildlife Service's (Service) review of certain Endangered Species Act (ESA) decisions overseen by former Deputy Assistant Secretary Julie MacDonald. As you know, on July 20, 2007, the Service announced that it would review eight ESA decisions that may have been inappropriately influenced by the Deputy Assistant Secretary. This review was undertaken after questions were raised about the integrity of scientific information used and whether the decisions made were consistent with the appropriate legal standards.

The Service has completed its review of these eight decisions under the ESA. Based upon our review, the Service has determined that revisions should be made for the following species:

White-tailed prairie dog 90-day finding
After review of the 90-day finding which determined that the petition did not contain substantial information indicating that listing may be warranted, the Service believes that this decision should be reconsidered. Consequently, the Service will complete a 12-month finding in fiscal year 2009, if funding is available.

Canada lynx final critical habitat
Consistent with a declaration filed with the Federal District Court of the District of Columbia, the Service will complete a new proposed rule designating critical habitat for the Canada lynx by August 2008. Beginning on February 1, 2008, the Service is required to provide status reports to the court on our progress.

Preble's meadow jumping mouse proposed delisting
On November 1, the Service announced that it would withdraw its proposed delisting rule for the Preble's meadow jumping mouse. The Service's proposed rule to amend the Preble's meadow jumping mouse listing and to specify over which portion the subspecies is threatened was published on November 7, 2007. The Service anticipates that a final listing rule will publish in June 2008.

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Preble's meadow jumping mouse critical habitat
Once a final listing rule is issued, we anticipate reviewing the final critical habitat designation and, if necessary, proceeding with a revision when funding is available.

Hawaiian picture-wing flies critical habitat
The Service has completed a rule to re-propose critical habitat for 12 species of picture-wing flies. The new proposed rule has been delivered to the Federal Register.

Arroyo toad critical habitat
The Service believes that the final critical habitat designation should be revised. We will proceed with this revision as funding is made available.

California red-legged frog critical habitat
The Service believes that the final critical habitat designation should be revised. We will proceed with this revision as funding is made available.

The Service believes that revising the seven identified decisions is supported by scientific evidence and the proper legal standards. As resources allow, these revisions will be completed as expeditiously as possible.

With respect to the Southwestern willow flycatcher, after coordinating among the Service's offices in Regions 2, 6, and California-Nevada Operations, the Service does not recommend revision of the final critical habitat designation. We believe that the 29 kilometer radius used to measure the range of the flycatcher movements and its site connectivity is scientifically supportable.

We appreciate your continued interest in the administration of the Endangered Species Act. If you have further concerns or questions, please do not hesitate to contact me directly at (202) 208-4545.

Sincerely,

Kenneth Stansell

Acting DIRECTOR