

14. Revise § 95.1101 to read as follows:

**§ 95.1101 Scope.**

This subpart sets out the regulations governing the operation of Wireless Medical Telemetry Devices in the 608–614 MHz, 1395–1400 MHz, and 1427–1432 MHz frequency bands.

15. Amend § 95.1113 by revising paragraphs (b)(1), (b)(5), and (b)(6) to read as follows:

**§ 95.1113 Frequency coordinator.**

\* \* \*

(b) \* \* \*

(1) Review and process registration requests submitted by authorized health care providers as required in § 95.1111;

\* \* \* \* \*

(5) Upon receipt of a registration request for WMTS equipment operating in the 1427–1432 MHz band, notify all part 90 frequency coordinators of the intended activation in accordance with the joint WMTS-part 90 coordination plan filed in WT Docket No. 02–8 on August 18, 2004. The part 90 frequency coordinators shall, in turn, determine potentially affected part 90 licensees and notify those part 90 licensees operating in the 1427–1432 MHz band in accordance with § 90.259 of this chapter of their obligation to ensure compliance with the field strength limit of § 90.259(b)(11) of this chapter, as measured at the WMTS site.

(6) Upon receipt of a registration request for WMTS equipment operating in the 1395–1400 MHz band, notify each party licensed to operate in the 1392–1395 MHz band in the applicable geographic area pursuant to subpart I of part 27 of this chapter of the need to comply with the field strength limit set forth in § 27.804 of this chapter.

[FR Doc. E7–11221 Filed 6–12–07; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 07–2194; MB Docket No. 07–107; RM–11330]

**Radio Broadcasting Services; Bokchito and Clayton, OK**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed by Charles Crawford (“Petitioner”) proposing the allotment of Channel 241A at Bokchito, Oklahoma, as a first

local service. The proposed coordinates for Channel 241A at Bokchito are 33–55–00 NL and 96–06–00 WL with a site restriction of 11.8 km (7.4 miles) south of town reference. To accommodate the proposed allotment at Bokchito, Petitioner proposes to substitute Channel 263A for vacant Channel 241A at Clayton, Oklahoma. The proposed coordinates for Channel 263A at Clayton are 34–32–48 NL and 95–29–46 WL with a site restriction of 14 km (8.7 miles) west of town reference.

**DATES:** Comments must be filed on or before July 16, 2007, and reply comments on or before July 31, 2007.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Petitioner and her counsel, as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205 and Gene A. Bechtel, Esquire, Law Office of Gene Bechtel, 1050 17th Street, NW., Suite 600, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Helen McLean, Media Bureau, (202) 418–2738.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Notice of Proposed Rule Making*, MB Docket No. 07–107, adopted May 23, 2007, and released May 25, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission’s Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission’s duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *See* 44 U.S.C. 3506(c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject of Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings,

such as this one, which involve channel allotments. *See* 47 CFR Section 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR Sections 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICES**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 241A and by adding Channel 263A at Clayton and by adding Bokchito, Channel 241A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 07–2901 Filed 6–12–07; 8:45 am]

BILLING CODE 6712–07–M

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Colorado River Cutthroat Trout as Threatened or Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of a 12-month petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce our 12-month finding for a petition to list the Colorado River cutthroat trout (CRCT) (*Oncorhynchus clarkii pleuriticus*) as a threatened species throughout its range in the United States, pursuant to the Endangered Species Act of 1973, as amended. After a thorough review of all available scientific and commercial information, we find that listing the CRCT as either threatened or endangered is not warranted at this time. We ask the public to continue to submit to us any new information that becomes available

concerning the status of or threats to the subspecies. This information will help us to monitor and encourage the ongoing conservation of this subspecies.

**DATES:** The finding in this document was made on June 5, 2007.

**ADDRESSES:** Data, information, comments, or questions regarding this notice should be sent to CRCT, U.S. Fish and Wildlife Service, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506. Once the complete administrative file for this finding is compiled, it will be available for inspection, by appointment, and during normal business hours, at the above address. The petition finding, related **Federal Register** notices, the Court Order, and other pertinent information, may be obtained on line at <http://mountain-prairie.fws.gov/endspp/fish/CRCT/>.

**FOR FURTHER INFORMATION CONTACT:** Patty Schrader Gelatt, Western Colorado Ecological Services Office (see **ADDRESSES**), by telephone at (970) 243-2778, by facsimile at (970) 245-6933, or by electronic mail at [patty\\_schradergelatt@fws.gov](mailto:patty_schradergelatt@fws.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the List of Endangered and Threatened Species that contains substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether any species is threatened or endangered, and expeditious progress is being made to add or remove qualified species from the List of Endangered and Threatened Species. Section 4(b)(3)(C) of the Act requires that a petition for which the requested action is found to be warranted but precluded be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months. Such 12-month findings must be published in the **Federal Register**.

On December 16, 1999, we received a formal petition (dated December 9, 1999) to list the CRCT as threatened or endangered in its occupied habitat within its known historic range, in accordance with provisions in section 4 of the Act. The petition was filed by the

Center for Biological Diversity (CBD), the Biodiversity Legal Foundation, Biodiversity Associates, Ancient Forest Rescue, Southwest Trout, Wild Utah Forest Campaign, Colorado Wild, and Mr. Noah Greenwald.

**Biology and Distribution**

The CRCT is the only salmonid (i.e., salmon, trout, and their close relatives) native to the upper Colorado River basin, and is 1 of 14 subspecies of cutthroat trout recognized by Behnke (1992, pp. 139-145; 2002, pp. 143-147) that are native to interior regions of western North America. It has red or orange slash marks on both sides of the lower jaws and relatively large spots concentrated on the posterior part of the body. Sexually mature males exhibit brilliant colors; the ventral region can be bright crimson, with red along the lateral line, and the lower sides of the body are typically golden yellow (Behnke 1992, pp. 139-145).

The CRCT historically occupied portions of the Colorado River drainage in Wyoming, Colorado, Utah, New Mexico, and likely in extreme northeastern Arizona (Behnke 1992, pp. 139-145). Its original distribution probably included portions of larger streams, such as the Green, Yampa, White, Colorado, and San Juan Rivers. Behnke and Zarn (1976, p. 15) suggested this subspecies was absent from the lower reaches of many large rivers because of summer thermal barriers. The CRCT still occurs throughout its historic range, but remaining populations now occur mostly in headwater streams and lakes.

The CRCT Conservation Team is composed of biologists from Wyoming Game and Fish Department (WGFD), Utah Division of Wildlife Resources (UDWR), Colorado Division of Wildlife (CDOW), U.S. Bureau of Land Management (BLM), U.S. Forest Service (USFS), and the Service. The CRCT Conservation Team recently completed a rangewide status report (Hirsch et al. 2006) that describes the current rangewide status of CRCT in the United States. The report summarized information provided by 48 fisheries professionals from Colorado, Utah, Wyoming, and New Mexico, including State wildlife agencies, USFS, BLM, and the Service (Hirsch et al. 2006, p. 1). Specific protocols were developed and the information was assembled in a Geographic Information System (GIS) database. A peer review was conducted on the report by five recognized experts in the field of fishery biology, conservation biology, and/or genetics. The results of the peer review found that the document provided sound

scientific data to use as the basis of our 12-month finding.

An analysis of probable historic distribution was provided in this status report (Hirsch et al. 2006, pp. 9-10). Historic distribution was based on habitat thought to be occupied around 1800 AD. The determination of occupation in this time period was based on elevation, slope aspect, barriers that would preclude fish, and expertise of fishery biologists familiar with each watershed. The analysis identified 34,417 kilometers (km) (21,386 miles [mi]) of stream habitat as having the potential to have been historically occupied. The historically occupied habitat was identified in each State as follows: Colorado—21,911 km/13,615 mi (63.6 percent); Utah—5,576 km/3,465 mi (16.2 percent); Wyoming—6,735 km/4,185 mi (19.6 percent); New Mexico—195 km/121 mi (0.6 percent). Scientists contacted regarding historical occurrence of CRCT in Arizona believe the drainages in the upper Colorado River basin in Arizona did not historically support CRCT (Hirsch et al. 2006, p. 2). Some hydrologic units were excluded from historic range, because the habitat was thought to be unsuitable due to extreme conditions or the habitats were thought to be devoid of fish.

Current distribution of CRCT is approximately 14 percent of probable historically occupied stream miles (Hirsch et al. 2006, p. 12). Approximately 1 percent (360 km (224 mi)) of currently occupied habitat is outside of areas determined to be historic habitat by Hirsch et al. (2006, p. 12). These populations are thought to be outside of the historic range because they are above historic barriers (natural waterfalls) where it is believed fish did not occur historically. These populations have been established by stocking CRCT above historic barriers.

The CRCT currently occupy 4,863 km (3,022 mi) of habitat; 2,187 km (1,359 mi) in Colorado, 1,788 km (1,111 mi) in Utah, and 888 km (552 mi) in Wyoming (Hirsch et al. 2006, p. 12). The CRCT are well distributed throughout their range in eight watershed-based Geographic Management Units (GMUs) (Figure 1). It should be noted that in earlier assessments 14 GMUs were identified as including current populations of CRCT; however, elimination of State boundaries in the most recent assessment reduced the number of GMUs, providing a more watershed-based approach. Reducing the number of GMUs does not indicate a reduction in the geographic area where CRCT occur (CRCT Conservation Team 2006a, pp. 7-8). Within each GMU, streams are

identified to the 4th level hydrologic unit and assigned a hydrologic unit code (HUC). The CRCT occupies some habitat in 42 of the 51 HUCs. The CRCT is not known to occur in New Mexico and is absent from nine HUCs within its historic range: Upper Colorado—Kane Springs, Upper Green—Slate, Big Sandy, Vermillion, Middle San Juan, Chaco, Mancos, Lower San Juan—Four Corners, and Montezuma.

Table 1 shows kilometers of currently occupied habitat in each GMU. The Upper Green River GMU and the Lower Green River GMU have the greatest extent of kilometers of currently occupied habitat for CRCT. The Upper Colorado River GMU and the Yampa River GMU also contain a substantial portion of occupied habitat. Some GMUs may not have as much habitat because they are smaller river drainages, such as the Dolores River, and others may be mostly lower elevation with less trout habitat, such as the Lower Colorado River GMU.

The CRCT rangewide status report (Hirsch et al. 2006, p. 29) identified 285 stream populations as conservation populations (Figure 2). Of the 285 conservation populations, 153 are considered core populations, meaning that they contain genetically pure Colorado River cutthroat trout. A conservation population is defined, per the States' position paper on Genetic Considerations Associated with Cutthroat Trout Management (UDWR 2000, pp. 1–9), as one that is either genetically unaltered (i.e., a core population) or one that may be slightly introgressed due to past hybridization (typically less than 10 percent) yet has attributes worthy of conservation. Therefore, conservation populations include both core populations (genetically pure), and populations that are less than 10 percent introgressed with other subspecies of cutthroat trout.

We conducted our analysis on conservation populations because we found that Colorado River cutthroat trout with less than 10 percent introgression still express important behavioral, life-history, or ecological adaptations of the indigenous populations within the range of the subspecies, and remain valuable to the overall conservation and survival of the subspecies (Campton and Kaeding 2005, pp. 1323–1325).

Hybridization is an important concern for CRCT populations. An introgressed population results when a nonnative species or subspecies is introduced into or invades the CRCT habitat, the two species then interbreed (i.e., hybridize), and the resulting hybrids themselves survive and reproduce. If the hybrids

backcross with one or both of the parental species, genetic introgression occurs. Continual introgression can eventually lead to the loss of genetic identity of one or both parent species, thus resulting in a “hybrid swarm” consisting entirely of individual fish that often contain variable proportions of genetic material from both of the parental species.

We have adopted the States' standards and consider all core and conservation populations, as defined under these standards and as described by Hirsch et al. (2006, p. 29), to be CRCT for purposes of this status review. Because the categories are nested, the term “conservation population” includes the “core populations,” and we refer to them collectively as “conservation populations” in the remainder of this document.

The greatest number of conservation populations occur in the Upper Green (76 populations) and Upper Colorado (75 populations) GMUs, occupying 1,532 km (952 mi) (Table 1). Most other conservation populations occur in the Yampa (53 populations), Lower Green (26 populations) and Gunnison (25 populations) GMUs, occupying 1,188 km (738 mi). Smaller numbers of conservation populations occur in the Lower Colorado (14 populations), San Juan (12 populations), and Dolores (4 populations) GMUs, occupying 170 km (106 mi) (Hirsch et al. 2006, p. 32). There are no conservation populations in Arizona or New Mexico.

The 2006 Conservation Strategy lists 41 existing conservation populations in 455 hectares (1,123 acres) of lake habitat in 6 of the GMUs (CRCT Coordination Team 2006a, p. 6). The protocol used in the rangewide status report was not designed to address lake populations (Hirsch et al. 2006, p. iv). However, during the analysis, when a lake was connected to occupied stream habitat, it was included as stream miles in the rangewide status report, and 18 of the 41 lakes were included as 11 stream kilometers (7 stream miles). Lake populations are considered an important component in the conservation of CRCT, and some lakes are specifically designated to preserve genetically pure populations (CRCT Coordination Team 2006a, p. 17).

While the Hirsch et al. (2006) report did not specifically analyze population trends, it gave some examples of previous assessments and the general portrayal of the previous status of the subspecies. For example, Binns (1977, pp. 7–16) found 40 streams in Wyoming occupied by CRCT, with 12 of those streams occupied by fish he considered genetically pure. The 2006 report

identifies 85 conservation populations in Wyoming. The CRCT Conservation Team produced reports in 1998, 2001, and 2003 that show stream conservation populations rangewide have increased from 161 populations in 1998 to 286 populations in 2003 and lake populations increased from 12 populations in 1998 to 41 populations in 2003 (Hirsch et al. 2006, p. 62). In recent years more populations have been discovered, and other populations have been expanded or restored. Also, populations that previously were considered hybridized were found through genetic testing to be eligible to be added to the list of conservation populations.

### Previous Federal Actions

On December 16, 1999, we received a formal petition from the CBD and others to list the CRCT as threatened or endangered. On January 12, 2000, we notified CBD that we could not immediately address the petition because of other higher priority listing activities. In October 2000, CBD filed a complaint in the U.S. District Court for the District of Columbia alleging that we had failed to make a timely 90-day finding. We completed the 90-day review process and on April 20, 2004, published a finding in the **Federal Register** (69 FR 21151) that determined the petition failed to present substantial information indicating that listing this subspecies may be warranted.

After our 90-day finding was published, Plaintiffs amended their October 2000 complaint, alleging that we used the wrong procedures and standards to assess the petition. From approximately January 2002 through April 2004 we received important information relevant to the status of CRCT from the wildlife departments of Colorado, Utah, and Wyoming, and from the National Park Service (NPS), BLM, and USFS. According to CBD's complaint, this information was used inappropriately in our 90-day finding because we only solicited information and opinions from limited outside sources.

On September 7, 2006, the Court ruled in favor of the Plaintiffs and ordered us to produce a status review and 12-month finding for CRCT within 9 months. A notice was published in the **Federal Register** (71 FR 65064) announcing the opening of a comment period from November 7, 2006, to January 8, 2007. A public workshop was held on December 6–7, 2006, to obtain additional information.

### Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and implementing regulations at 50 CFR part 424, set forth procedures for adding species to the Federal List of Endangered and Threatened Species. In making this finding, we summarize below information regarding the status and threats to this species in relation to the five factors provided in section 4(a)(1) of the Act.

In response to our 2006 **Federal Register** notice, we received comments and information on CRCT from the States of Colorado, Utah, and Wyoming, as well as USFS, BLM, private citizens and organizations, and other entities. Among the materials that we received, the most important was a rangewide status report for CRCT (Hirsh et al. 2006). The Hirsh et al. (2006) status report is a comprehensive document covering the entire range of the CRCT.

The CRCT rangewide status report (Hirsch et al. 2006) and the comprehensive database that is the report's basis, along with other supplemental submissions from the agencies and commenter, provide the best scientific and commercial information available that describes the current rangewide status of CRCT. The rangewide status report summarizes information provided by 48 fisheries professionals from Colorado, Utah, Wyoming, and New Mexico, including State wildlife agencies, USFS, BLM, and the Service (Hirsch et al. 2006, p. 1). Specific protocols were developed and the information was assembled in a Geographic Information System (GIS) database. A peer review was conducted of the report by five recognized experts in the field of fishery biology, conservation biology, and/or genetics. The results of the peer review found that overall the document provides sound scientific data to use as the basis for our 12-month finding.

During the recent public comment period, we received comments from the petitioners (Greenwald 2007, pp. 2–3) recommending that we use the criteria developed to evaluate Rio Grande cutthroat trout (*Oncorhynchus clarki virginalis*) for evaluating CRCT. The Service finds that the criteria for the Rio Grande cutthroat trout were appropriate for that subspecies at the time of its candidate status review. However, at that time, a rangewide status assessment was not available for that subspecies. The Service finds that the most recent rangewide status report for CRCT (Hirsch et al. 2006) provides the best scientific information on the rangewide status of the subspecies. It provides a

broad picture of the status of the subspecies without eliminating populations that may provide important resources for the conservation of the subspecies.

In making this finding, we considered all scientific and commercial information that we received or acquired between the time of the initial petition (December 1999) and the end of the Status Review public comment period (January 8, 2007). We relied primarily on published and peer-reviewed documentation for our conclusions.

#### *Factor A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range*

Most CRCT populations currently occupy lands administered by Federal agencies. Of the total 4,863 km (3,022 mi) of occupied habitat, including sport fish populations (includes all CRCT populations), 3,618 km/2,248 mi (74 percent) are under Federal jurisdiction, with the majority occurring within National Forests (Hirsch et al. 2006, p. 27). National Forest wilderness areas have 750 km (466 mi) of CRCT habitat, and other National Forest lands have 2,494 km (1,550 mi) of habitat. The CRCT occupy 336 km (209 mi) of land administered by the BLM and 37 km (23 mi) managed by the NPS.

Land uses associated with each conservation population were identified in Hirsch et al. (2006, p. 50, Table 33), but the significance of the activities was not determined in relation to individual populations or the conservation of the subspecies. Non-angling recreation (camping, hiking, ATV use, etc.) occurs in 73 percent of the conservation populations, and angling occurs in 71 percent of the conservation populations. Livestock grazing occurs in 68 percent of the conservation populations, roads in 42 percent, timber harvest in 24 percent, and dewatering in 16 percent. A small percentage of populations have mining, nonnative fish stocking, hydroelectric plants or water storage, or other activities. Many populations have more than one land use occurring in the area.

A comprehensive assessment of the effects of land management practices on CRCT does not exist. However, an evaluation of habitat quality was conducted for currently occupied habitat (Hirsch et al. 2006, p. 23). The evaluation considered both natural habitat features and human disturbances, including land use practices. A stream ranked excellent if it had ample pool habitat, low sediment levels, optimal temperatures, and

quality riparian habitat. Good habitat quality may have some attributes that are less than ideal, and fair habitat has a greater number of attributes that are less than ideal. Poor habitat quality is found where most habitat attributes reflect inferior conditions. Approximately 618 km/384 mi (13 percent of occupied habitat) (including sport fish populations) received an excellent habitat rating. Good habitat conditions were found in 1,419 km/882 mi of habitat (29 percent of occupied habitat) and fair habitat conditions were found in 2,276 km/1,414 mi of habitat (47 percent of occupied habitat). Poor conditions were found in 275 km/171 mi (5.7 percent of occupied habitat), and habitat conditions in 275 km/171 mi (5.7 percent) were unknown. The majority of occupied habitat (89 percent) is considered in fair, good, or excellent condition, which indicates that current management practices under Federal land management agencies and other jurisdictions in general are maintaining habitat conditions that support CRCT.

Livestock grazing occurs in the vicinity of over half of the CRCT populations. Appropriately managed livestock grazing can occur in the vicinity of CRCT habitat while maintaining habitat conditions that support CRCT. We recognize that overgrazing does cause adverse impacts to some individual populations of CRCT. However, only 5.7 percent of the occupied stream miles were considered to have poor habitat quality, according to the habitat evaluation in the rangewide status report (Hirsch et al. 2006, p. 23). Specific information on grazing impacts to CRCT habitat on a rangewide basis is not available. We did not receive information that led us to believe that overgrazing has caused declines in CRCT to the extent that it affects the rangewide status of the subspecies.

Roads, timber harvest, dewatering, and other activities occur in the area of some CRCT populations. The presence of these activities may directly affect CRCT habitat in certain locations. However, the habitat quality evaluation (Hirsch et al. 2006, p. 23) indicates that most CRCT habitats are currently maintained in excellent, good, or fair condition, providing adequate habitat for the persistence of the subspecies throughout its current range.

Oil and gas development has been accelerating over the last several years in Colorado, Utah, and Wyoming. Oil and gas development could affect CRCT through increased land disturbance from roads and pads that could cause increased sediment loads and water

quality problems associated with discharge of produced water reaching CRCT habitat. The BLM provided maps overlaying CRCT conservation populations in Colorado and Wyoming with the occurrence of existing active and inactive wells and existing oil and gas leases on BLM, USFS, and other lands where BLM has jurisdiction over the subsurface mineral rights. The mapping analysis showed that there is very little overlap between oil and gas development sites and CRCT conservation populations. For the most part, CRCT populations occur at higher elevations where there is minimal oil and gas activity. Specific areas may have high potential for oil and gas development, such as the Roan Plateau in western Colorado (Upper Colorado GMU) and the Wyoming Range in Wyoming (Upper Green GMU). However, it does not appear that oil and gas development would impact a significant number of conservation populations to the extent of influencing the status of the subspecies. Where oil and gas development is proposed, the BLM is implementing measures to protect CRCT habitat. For example, the Roan Plateau Plan proposes special land use designations such as no ground disturbing activities and no surface occupancy for occupied and other high-value CRCT habitat; and Site-specific Relocation/Controlled Surface Use for the entire Parachute Creek Watershed Management Area (BLM 2006, pp. 2–13).

State and Federal agencies are implementing existing programs to restore and enhance CRCT habitat. Most of the 285 conservation populations (72 percent) have one or more restoration, conservation, or management activities either completed or currently being implemented within CRCT habitat (Hirsch et al. 2006, p. 50). One example is the Strategic Habitat Plan adopted by the Wyoming Game and Fish Commission in 2001 (WGFD 2007, p. 16), where habitat biologists work with landowners and land managers to manipulate habitat on a watershed scale, providing benefits to both terrestrial and aquatic wildlife resources. Even though the Strategic Habitat Plan was not officially adopted until 2001, many projects of this nature were already being implemented. An example is the Little Mountain project which has been ongoing for more than 12 years. This effort is an integrated watershed restoration project implemented in a 91,054-hectare (225,000-acre) watershed in the Upper Green River GMU. Habitat managers have used a variety of treatments,

including 216 habitat improvement structures, 37 km (23 mi) of fence, 860 trees planted, 12,910 hectares (31,900 acres) treated with prescribed fire, and 16 km (10 mi) of pipeline and 12 stock tanks for livestock water development. As a result, stream mileage inhabited by CRCT in the project area tripled to 61 km (38 mi), while population densities increased by over 1,000 percent (WGFD 2007, pp. 17–18). Livestock grazing allotment buyouts also have been implemented under this program to reduce impacts of overgrazing and improve watershed conditions for CRCT (WGFD 2007, pp. 16–19).

The CBD (Greenwald 2007, p. 7) submitted comments stating that impacts of livestock grazing, logging, water diversion, roads, and oil and gas drilling were extensively documented in their original petition. However, the analysis presented in the petition assumed that if a land management activity occurred in the vicinity of a CRCT population, the activity was adversely affecting the population. In our 90-day finding, the Service recognized that overgrazing and other land management activities can be detrimental to trout habitat, and that overgrazing and other land management activities may occur in some habitats occupied by CRCT. The petition asserted that habitat conditions are degraded in a significant portion of the subspecies' range. According to Greenwald (2007, p. 7), the information presented in the petition clearly indicates that ongoing habitat degradation is threatening remaining CRCT populations. However, the petition used the habitat limitations data field presented in Appendix A of the Conservation Agreement and Strategy (CRCT Task Force 2001 pp. 38–49) to draw this conclusion. This data field is not adequate to determine the habitat condition of individual streams or lakes or to determine the condition of the habitat rangewide. In contrast with the CBD (Greenwald 2007, p. 7), we found that the mere presence of an activity within a stream segment that hosts a conservation population is not sufficient evidence to conclude that the population is threatened. Additional parameters, such as distribution and abundance, and recent trends, must be factored into an overall status determination. Otherwise, logic would dictate that every species that comes into contact with managed landscapes is threatened by those human influences. Such a conclusion is not reasonable.

#### *Summary of Factor A*

In summary, populations of CRCT that meet the State management agency

standards as conservation populations (i.e., CRCT populations we are considering for the purposes of this finding) and are well distributed in the 8 GMUs (major watersheds). The major watersheds contain 42 HUCs (smaller watershed designations within each GMU) throughout CRCT native range. The majority of the conservation populations occur in the Upper Green and Upper Colorado GMUs, with a substantial number of conservation populations occurring in the Yampa, Lower Green, and Gunnison GMUs.

Land use practices, such as livestock grazing, road maintenance, and timber harvest, are occurring in most areas of occupied habitat. However, habitat quality ratings of fair, good or excellent are being maintained in a large majority of CRCT habitat throughout the current range of the subspecies. The majority of the populations occur on Federal lands where land use regulations ensure maintenance of existing habitat (see Factor D), with restoration and enhancement projects occurring in the majority of these populations.

Substantial numbers of CRCT conservation populations with adequate habitat conditions exist in the eight major GMUs of the upper Colorado River basin, collectively forming a solid basis for persistence of conservation populations of CRCT. Based on the present information, we conclude that the best scientific and commercial information available to us indicates that present or threatened destruction, modification, or curtailment of habitat or range has not affected the status of CRCT to the extent that listing under the Act as a threatened or endangered species is warranted at this time.

#### *Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

No commercial harvest of CRCT currently occurs, so any potential overutilization would come from recreational angling. Data show that angling occurs in 71 percent of CRCT conservation populations (Hirsch et al. 2006, p. 50). Colorado, Utah, and Wyoming all have special regulations that provide protection against over-harvest of CRCT. These special regulations include catch-and-release requirements, very limited harvest, fishing closures, and tackle restrictions. Also, the remote location of many CRCT streams provides protection from heavy fishing pressure (CRCT Coordination Team 2006a, p. 10). Angling for CRCT is considered an incidental activity because most streams are small and difficult to access by vehicle, and adult fish are small due to the short growing

season at high elevations (Fausch et al. 2006, p. 32)

In Colorado, Administrative Directive W-6 classifies CRCT waters as "Native Fish Species Conservation Management," where the primary purpose of management is for native cutthroat recovery and conservation. Primary consideration is to protect the populations from pathogens and overfishing by implementing special regulations, which may include prohibiting angling where determined appropriate (CDOW 2007, pp. 3-4). In Utah, several fishing regulations have been implemented to protect native cutthroat trout from overutilization. For example, Statewide trout bag and possession limits were reduced from eight fish to four, and short-term fishing closures were recently imposed to protect native cutthroat trout (Donaldson 2007, p. 3). Wyoming implements various angling restrictions to protect CRCT populations, such as complete fishing closures, catch and release only, reduced bag limits, seasonal closures, or tackle restrictions (WGFD 2007, p. 23).

Scientific collection of CRCT for scientific or educational purposes is controlled by a strict permitting process that prevents excessive sampling in Colorado, Utah, and Wyoming (CRCT Coordination Team 2006a, p. 10). Collection of fish tissue for genetic sampling is now conducted by non-lethal techniques.

#### Summary of Factor B

In our 90-day finding (69 FR 21151), we concluded that angler harvest did not pose a significant threat to the continued existence of CRCT. We did not receive any new information during the status review to change this conclusion. As a result of this status review, we conclude that the best scientific and commercial information available to us indicates that overutilization for commercial, recreational, scientific, or educational purposes has not affected the status of CRCT to the extent that listing under the Act as a threatened or endangered species is warranted.

#### Factor C. Disease or Predation Disease

Disease risks are evaluated in the status report (Hirsch et al. 2006, pp. 41-43). Diseases considered in this evaluation included whirling disease, along with several others. Risks are assessed based on proximity of disease-causing pathogens and their accessibility to a population. The majority of the populations (63 percent)

are considered to have very limited risk from disease because disease and pathogens are not known to exist in the watershed, or a barrier is in place blocking upstream fish movement. In general, populations that are isolated have less risk of catastrophic diseases (Hirsch et al. 2006, p. 42). Only five populations are known to be currently infected with one of the identified diseases.

In recent years, whirling disease has become of great concern to fishery managers in western States. Whirling disease is caused by the nonnative myxosporean parasite, *Myxobolus cerebralis*. This parasite was introduced to the United States from Europe in the 1950s and requires two separate host organisms to complete its life cycle. Its essential hosts are a salmonid fish and an aquatic worm, *Tubifex tubifex*. Field experiments have shown that CRCT are very susceptible to whirling disease, with an 85 percent mortality rate over a 4-month period when CRCT were exposed to the parasites in the Colorado River (Thompson et al. 1999, pp. 317-325). However, *Tubifex tubifex* is usually most abundant in areas of high sedimentation, warmer water temperatures, and low dissolved oxygen. Most populations of CRCT occur in cold water stream habitats at high elevations, where the aforementioned conditions are unlikely to exist and where *Tubifex tubifex* is unlikely to be abundant. Thompson et al. (1999, pp. 317-325) found infection rates to be low when temperatures are less than 10 °C (50 °F). Out of the several hundred CRCT populations reported by the States, only a few populations of CRCT in Utah and Wyoming have been infected by whirling disease (Hirsch et al. 2006, p. 42).

All three States have developed management activities to protect CRCT populations from whirling disease. In Colorado, policies require that only fish that have tested negative for *Myxobolus cerebralis* within 60 days of stocking are permitted to be released into CRCT waters. Colorado also requires disease-free certification and requires the use of isolation/quarantine units for CRCT stocks (Hebein et al. 2007, pp. 10-12). Utah has some of the most stringent fish disease laws in the United States (Donaldson 2007, p. 4). Utah has a Fish Health Board that oversees the disease testing protocol. Utah does not allow fish that test positive for whirling disease to be stocked anywhere (Donaldson 2007, p. 4). UDWR is studying the effects of whirling disease on the few CRCT waters in Utah that have been infected by whirling disease

(Donaldson 2007, p. 4). Wyoming has a policy that any fish testing positive for *Myxobolus cerebralis* will not be stocked (WGFD 2007, pp. 23-24).

#### Predation

Where they occur in the same habitat, CRCT are often replaced by nonnative trout, primarily brook trout (*Salvelinus fontinalis*), but the degree to which predation is a factor in this replacement has not been well studied (Peterson et al. 2004, p. 755). The CDOW concluded that predation is not a factor for CRCT, because of the lack of large predatory fish, such as brown trout (*Salmo trutta*), lake trout (*Salvelinus namaycush*), or northern pike (*Esox lucius*) in CRCT habitat (Hebein et al. 2007, p. 12). We find that there is insufficient information to conclude that predation by nonnative fishes is a significant threat to CRCT.

#### Summary of Factor C

The recent rangewide status report (Hirsch et al. 2006, p. 41) found only five CRCT populations currently infected with a significant disease, and only four additional populations to be at high risk for infection. As a result of this analysis, we conclude that the best scientific and commercial information available to us indicates that whirling disease or other disease organisms have not affected the status of CRCT to the extent that listing under the Act as a threatened or endangered species is warranted at this time. While nonnative fishes have been identified as a factor in the population dynamics of CRCT, very little specific information is available that describes how predation affects individual populations of CRCT. Fish surveys show that large predatory fish do not occur in CRCT habitat. Therefore, based on the available information, it does not appear that predation affects the status of CRCT to the extent that listing under the Act as threatened or endangered is warranted at this time.

#### Factor D. Inadequacy of Existing Regulatory Mechanisms

The Act requires us to examine the adequacy of existing regulatory mechanisms with respect to those extant threats that place the species in danger of becoming either threatened or endangered. In the States of Colorado, Utah, and Wyoming, CRCT are considered a game species, and each State has specific regulations regarding catching CRCT by angling. The management authorities that develop and set the angling regulations typically do not own or manage the habitat in the watersheds inhabited by CRCT conservation populations. Most of that

habitat is managed by Federal land management agencies, primarily the USFS and BLM.

#### Regulatory Mechanisms Involving Land Management

Numerous State and Federal laws and regulations are in existence that help to minimize adverse effects of land management activities on CRCT. Federal laws that protect CRCT and their habitats include the Clean Water Act, Federal Land Policy and Management Act, National Forest Management Act, Wild and Scenic Rivers legislation, Wilderness Act, and the National Environmental Policy Act.

Approximately 74 percent of CRCT habitat occurs on lands managed by Federal agencies. The majority of those lands are managed by the USFS. The CRCT occur in a large geographic area within the following National Forests: Arapaho-Roosevelt, Grand Mesa-Uncompahgre-Gunnison, Medicine Bow-Routt, San Juan, White River, Manti-La Sal, Wasatch-Cache, Ashley, Dixie, and Bridger-Teton. Approximately 23 percent of USFS lands that have CRCT habitat are designated wilderness areas. Wilderness Areas and National Parks provide an extra level of protection for CRCT because many land management activities are prohibited in these areas. Regulatory mechanisms that address threats from pathogens and hybridizing nonnative fishes, such as fish stocking regulations, are addressed under Factors C and E.

Other aquatic species listed under the Act do not overlap with the current range of the CRCT. The following four endangered fish species occur in the upper Colorado River basin in Colorado, Utah, Wyoming, and New Mexico: The Colorado pikeminnow (*Ptychocheilus lucius*), razorback sucker (*Xyrauchen texanus*), humpback chub (*Gila cypha*), and bonytail (*Gila elegans*). However, these species occur in the warm water reaches of the upper Colorado River basin and well downstream of any occurrence of CRCT. Water releases from upstream reservoirs as part of the recovery program to benefit the Colorado River endangered fishes would not flow through CRCT habitat. The threatened wetland plant, *Spiranthes diluvialis* (Ute ladies'-tresses orchid) and its potential habitat, occur in wetlands along the mainstem Green River in Colorado and Utah and the Yampa River in Colorado, outside the current range of CRCT.

#### U.S. Forest Service

The USFS Sensitive Species policy in Forest Manual 2670 outlines procedures

to address sensitive species. This policy is applied to projects implemented under the 1982 National Forest Management Act Planning Rule. The CRCT is designated a sensitive species by USFS Regions 2 and 4 where the Forests are operating under the forest plan for the 1982 Rule. However, in 2005, the USFS implemented a new planning rule (70 FR 1023, January 5, 2005), which directs Land Management Plans (LMPs) to be more strategic and less prescriptive. Under the new rule, LMPs identify ecosystem-level desired conditions and provide management objectives and guidelines to move toward the desired conditions (Troyer 2007, pp. 1–2). The LMPs also will provide species-specific direction for special status species when the broader ecosystem-level desired conditions do not provide for their needs.

USFS Region 2 (which includes all Colorado National Forests and the Medicine Bow National Forest in Wyoming) applies practices outlined in their Watershed Conservation Practices Handbook to CRCT habitat (USFS 2006, pp. 1–29). This handbook states that the USFS will apply watershed conservation practices to sustain healthy soil, riparian, and aquatic systems. The handbook provides Management Measures with specific design criteria to implement the management measures. For example, Management Measure No. 3 states: “In the water influence zone next to perennial and intermittent streams, lakes, and wetlands, allow only those actions that maintain or improve long-term stream health and riparian ecosystem condition.” In riparian areas and wetlands that are not meeting or likely to attain desired healthy condition, one design criteria to implement the Management Measure is to exclude livestock from areas where monitoring information shows that continued livestock grazing prevents attainment of those objectives. Implementation of such measures should maintain or enhance CRCT habitat.

Greenwald (2007, p. 19) and Mueller (2007, pp. 1–2) submitted comments for this status review that assert that the National Forest Management Act and other laws are inadequate and their implementation is insufficient to provide necessary protections to CRCT on USFS lands. They express concern regarding the changes in Forest planning procedures between the 1982 National Forest Management Act Planning Rule and the 2005 Planning Rule and its ability to protect CRCT on USFS lands. We considered the changes in the planning process and found that,

under the revised Forest Planning Regulations (70 FR 1023, January 5, 2005), CRCT are classified as a “species of concern.” This designation provides protections similar to those received for sensitive species and requires that LMPs include additional provisions to accommodate these species and provide adequate ecological conditions to continue to provide for the needs of CRCT. The USFS is required to develop a specific plan for CRCT for each LMP where the species occurs and project level analysis is required when a project is proposed in CRCT habitat. One component of the new planning process is the requirement for a monitoring plan. The purpose of the monitoring plan is to collect data at set intervals so that the USFS can evaluate progress toward achieving desired conditions, including conditions for species of concern, described in the LMP. A Comprehensive Evaluation Report is produced every five years that summarizes these data, identifies conditions and trends, and identifies the need for change.

#### Bureau of Land Management

The CRCT is a designated sensitive species by the BLM in Colorado, Wyoming, and Utah. The BLM’s policy for sensitive species offers the same level of protection as BLM’s policy for candidate species. The policy reads as follows:

For candidate/sensitive species where lands administered by the BLM or BLM authorized actions have a significant effect on their status, manage the habitat to conserve the species by:

- a. Ensuring candidate/sensitive species are appropriately considered in land use plans.
- b. Developing, cooperating with, and implementing range-wide or site-specific management plans, conservation strategies, and assessments for candidate/sensitive species that include specific habitat and population management objectives designed for conservation, as well as management strategies necessary to meet those objectives.
- c. Ensuring that BLM activities affecting the habitat of candidate/sensitive species are carried out in a manner that is consistent with objectives for managing those species.
- d. Monitoring populations and habitats of candidate/sensitive species to determine whether management objectives are being met.

#### National Park Service

As stated in our 90-day finding, the current fisheries management objectives in Rocky Mountain National Park were established in 1969, when the stocking of nonnative and hybrid fishes was no longer permitted. Lakes that did not maintain reproducing populations of fish became fishless (Rosenlund et al. 2001, p. 2). Five sites that contain core



conservation populations within Rocky Mountain National Park are open to catch-and-release fishing, and four other sites have a two-fish limit. Most CRCT waters within the Park are in high-elevation remote locations, where angling pressure is very light. Livestock grazing, timber harvest, mining, or other development do not occur in Rocky Mountain National Park.

#### Regulatory Mechanisms Involving Water Quantity

An important regulatory mechanism controlled by the States is the implementation of instream flow regulations in CRCT habitat. In Colorado, the Colorado Water Conservation Board holds instream flow water rights for 8,539 stream kilometers (5,306 stream miles) in 915 stream segments in the upper Colorado River basin in western Colorado.

Approximately 55 percent of the conservation populations in Colorado are protected by instream flow rights and/or wilderness or national park designation, and an additional 38 percent are on an appropriation list for future protection through filing of instream flow water rights (Hebein et al. 2007, p. 15). The State of Wyoming has approved instream flow rights on 28 stream segments encompassing 187 km (116 mi) of CRCT habitat (WGFD 2007, p. 17).

Greenwald (2007, p. 13) submitted comments for this status review, indicating that the Conservation Agreement and Conservation Strategy (CRCT Coordination Team 2006a, 2006b) are voluntary agreements that do not qualify as regulatory mechanisms. The Service agrees with that assessment and based its finding of the listing status of CRCT on the best available scientific and commercial information regarding the status and threats to CRCT, not on the promised or anticipated results of conservation actions.

#### Summary of Factor D

Our status review has revealed information to indicate that regulatory mechanisms related to land management or fisheries management are effective, and will continue to be effective in protecting CRCT in the future. The USFS, BLM, NPS, Colorado, Utah, and Wyoming all have regulatory mechanisms in place that specifically protect CRCT. As a result of this status review, we conclude that the best scientific and commercial information available to us indicates that any identified inadequacies of existing regulatory mechanisms have not affected the status of CRCT to the extent that listing under the Act as a

threatened or endangered species is warranted.

#### Factor E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

##### Fragmentation and Isolation of Small CRCT Populations in Headwater Areas

The majority of CRCT conservation populations (66 percent) occur as isolated, non-networked populations (Hirsch et al. 2006, p. 44). Another 72 populations (25 percent) are considered weakly connected, and 17 populations (6 percent) are considered moderately connected. Only eight populations have migratory forms present and open migration corridors so that they are considered strongly connected. The strongly connected populations occur in Utah and Wyoming in the Upper Green, Lower Green, and Yampa GMUs (Hirsch et al. 2006, p. 32). The CRCT Coordination Team (2006b, p. 8) defines metapopulations as a collection of localized populations that are geographically distinct but genetically interconnected through natural movement of individual fish between populations. Metapopulations are important because they maintain genetic exchange and increase genetic diversity. They also provide individuals to repopulate stream segments where populations are lost due to stochastic environmental events. While metapopulations are important in the overall status of the subspecies, they are at a higher risk for disease and invasion of nonnative fish.

Some problems associated with small isolated populations are the increased risk of extirpation by catastrophic events and the loss of genetic exchange (CRCT Coordination Team 2006a, p. 9). Many populations occur in headwater streams where cold water temperatures and small stream size make habitat conditions less than optimal. In high elevation streams, cold summer water temperatures tend to delay spawning and these small stream often lack the deep water pools that are important to overwinter survival (Harig and Fausch 2002, pp. 545–547).

The small size of some CRCT populations is directly related to short stream segments where they occur. Through modeling, Hilderbrand and Kershner (2000, pp. 215–218) estimated minimum stream length for several subspecies of cutthroat trout in relation to population size. They estimated that a stream length of 3 km (2 mi) was required to support a population of 1,000 fish; 8 km (5 mi) to support 2,500 fish; and 17 km (10 mi) to support 5,000 fish. Recent modeling found that

streams thought to be below the population thresholds for long-term persistence based on minimum stream length have higher numbers of CRCT than originally predicted and that small increases in habitat length can produce a disproportionately greater increase in fish abundance (Young et al. 2005, p. 2406). Small, isolated populations have persisted for many years, such as above waterfalls and or in desert basins (Hilderbrand and Kershner 2000, p. 517). Specific criteria for population size to maintain viability has not been developed for CRCT (CRCT Coordination Team 2006a, p. 8).

Small, isolated populations are at greater risk from stochastic events such as fire, floods, and drought that may threaten individual populations. However, widespread geographic distribution of CRCT in numerous individual populations mitigates the potential of future catastrophic natural events from affecting a large proportion of the populations. It is unlikely that a significant number of populations would be lost to the extent of affecting the overall status of the subspecies. Also, the fishery management agencies have the ability and management direction to reestablish CRCT populations in areas where they may be lost to natural catastrophic events. Wildfire is typically thought of as negatively affecting CRCT. However, where nonnative fishes occur in CRCT habitat, fire can present an opportunity to eliminate the nonnative fishes and provide an appropriate situation for reestablishment of CRCT (Hebein et al. 2007, pp. 16–17). New populations have been established in areas that were previously vacant such as above waterfalls and artificial barriers.

Active programs are in place to restore metapopulations within the historic range of CRCT. For example the WGFD, UDWR, and USFS worked together to eliminate nonnative trout and restore CRCT in portions of the Gilbert Creek drainage in the Upper Green GMU. The project, completed in 2003, connected three populations and restored over 10 km (6.5 mi) of stream in Wyoming and several more in Utah (WGFD 2007, p. 15).

A general population health evaluation was conducted for all CRCT conservation populations (Hirsch et al. 2006, pp. 44–49). The evaluation was based on the following four health indicators: Temporal variability, population size, production potential, and population connectivity. Temporal variability looked at stream length to indicate patch size and resiliency. Population size of adults was used to estimate effective population size.



Production potential used growth and survival to estimate habitat quality, presence of nonnative fishes, disease, and land use impacts. Population connectivity identified the degree to which populations were networked or connected.

The general health evaluation found that most of the conservation populations (69 percent) occur in stream reaches of less than 10 km (6 mi) (Hirsch et al. 2006, pp. 44–49). About 25 percent of the conservation populations occupy stream reaches between 10 km (6 mi) and 31 km (19 mi) in length, and 15 populations (5 percent) occupy stream reaches between 32 km (20 mi) and 64 km (40 mi). Two conservation populations (less than 1 percent) occupy stream reaches at least 80 km (50 mi) long. Evaluation of adult population estimates found that 12 percent of the conservation populations have at least 2,000 adult CRCT. About one-third of the conservation populations had between 500 and 2,000 fish, and another third had between 50 and 500 adult fish. The remainder of the populations had fewer than 50 adult fish. Most of the conservation populations (89 percent) were considered to be moderately healthy in terms of growth and survival, based on habitat quality, presence of nonnative trout, disease risk, land uses, and recovery actions. Composite scores of general health ranked the majority of populations with a moderately low level of general health primarily due to the number of small, isolated populations.

The CRCT Conservation Team determined that it is important to incorporate two different conservation strategies (Hirsch et al. 2006, p. iv). One strategy emphasizes isolated populations because they are less susceptible to introgression, disease, and competition from nonnative fish. Multiple populations distributed throughout a watershed provide a mechanism for spreading risk because the simultaneous loss of all populations within the watershed is unlikely. A second strategy is to preserve and restore metapopulations to provide genetic exchange and allow for larger populations. Within the current range of CRCT both isolated populations and metapopulations are present, providing features for both conservation strategies.

#### Fisheries Management

Since the late 1800s, fishery managers have implemented fish stocking programs that introduced nonnative salmonids into lake and stream habitats of CRCT. Nonnative rainbow trout have been introduced extensively throughout the range of CRCT, and they now compete and hybridize with CRCT.

Stocking records from as early as 1885 from CDOW and the Service (formerly the U.S. Fish Commission) indicate that greenback cutthroat trout (*Oncorhynchus clarki stomias*), a subspecies known to occur in Colorado east of the continental divide in the South Platte and Arkansas River drainages, were raised in hatcheries and stocked in CRCT waters (Wiltzius 2007, pp. 1–22). These stocking records also indicate nonnative Yellowstone cutthroat trout (*Oncorhynchus clarkii bouvieri*) were stocked in CRCT waters. These subspecies of cutthroat trout are known to interbreed with CRCT. Nonnative brook trout also were stocked in the past for sport fishing purposes and are known to compete with CRCT. The numbers of kilometers where nonnative trout are present exceed the numbers of kilometers where records indicate nonnative trout stocking occurred in most areas, indicating that fish disperse to larger areas after stocking (Hirsch et al. 2006, pp. 25–26).

Trappers Lake near the headwaters of the White River in Colorado had an endemic population of CRCT and was used to harvest eggs for routine stocking throughout Colorado by the CDOW (Martinez 1988, p. 86). A hatchery was constructed on Cabin Creek, a tributary to Trappers Lake, and by the 1920s, 2 million eggs a year were taken and used for stocking programs in Colorado (Rogers and Wangnild 2005, pp. 1–2). In the 1930s, CRCT from Trappers Lake were planted in Lake Nanita in Rocky Mountain National Park and Williamson Lake in California, which remain today as sources of original Trappers Lake CRCT (Rogers and Wangnild 2005, pp. 1–2). Trappers Lake was stocked with Yellowstone cutthroat trout between 1943 and 1950, and “black-spotted trout” (any combination of cutthroat trout, including hybrids) in 1952 and 1965 (Martinez 1988, p. 86). Later, both rainbow trout and brook trout were introduced into Trappers Lake. Trappers Lake is no longer considered a pure population appropriate for providing a source of eggs for restoration, and spawning operations were suspended in 2000 (Rogers and Wangnild 2005, p. 2).

Fish and wildlife agencies no longer stock nonnative trout in CRCT habitat (CRCT Coordination Team 2006a, p. 9). In some instances private parties may be illegally stocking waters with nonnative trout that compete with and/or hybridize with CRCT.

#### Competition From Introduced Brook Trout

Competition from nonnative trout, especially brook trout, is recognized as a threat to CRCT (Behnke 1992, p. 54).

Brook trout are the most common nonnative trout sympatric with CRCT populations (Hirsch et al. 2006, pp. 96–200). Studies have shown CRCT are displaced when brook trout occur in the same habitat (Peterson et al. 2004, p. 769). Recent studies have found that brook trout reduce recruitment of CRCT and reduce inter-annual survival of juvenile CRCT, which leads to reduction in population size of CRCT (Peterson et al. 2004, p. 769). Experiments where brook trout were removed from CRCT populations showed an increase in the survival of juvenile CRCT (Peterson et al. 2004, p. 767).

Brook trout are no longer stocked in CRCT waters in Colorado, Utah, or Wyoming. Ongoing programs are being implemented to remove brook trout by mechanical or chemical means from CRCT waters in all three States (Hebein et al. 2007, pp. 19–32; Donaldson 2007, p. 2; WGFD 2007, p. 9). In Utah, between 1992 and 2006, nonnative fish removal was conducted on almost 161 km (100 mi) of CRCT streams (Donaldson 2007, p. 9). Approximately 30 percent (898 km [558 miles]) of stream kilometers that support CRCT conservation populations are sympatric with brook trout (Brauch 2007).

Barriers have been constructed, or natural barriers exist, that protect CRCT populations from both brook trout invasion and hybridization threats from nonnative fishes. Complete barriers assist in protecting 139 conservation populations (49 percent) occupying 982 km (610 mi) of stream, and partial barriers help protect 27 populations occupying 322 km (200 mi) of stream (Hirsch et al. 2006, p. 36). While barriers help protect populations from nonnative fish invasion, there are negative effects of installing barriers that must be considered, such as blocking fish movement and fragmenting habitat. Barrier placement may not be appropriate for all native cutthroat populations (Fausch et al. 2006, pp. 2–4).

#### Hybridization With Nonnative Fishes

The scientific criteria for describing and formally recognizing taxonomic species of fish are based almost entirely on morphological characters (Behnke 1992, pp. 7–11). The advent of molecular genetic techniques in the mid-1960s added an additional set of biological markers that are used to distinguish species and subspecies of native trout in the western United States. In most native cutthroat trout genetic analyses to date, the molecular genetic data have confirmed the evolutionary distinctness among species and subspecies that had been described

taxonomically on the basis of morphology (Behnke 1992, pp. 7–11).

Fish managers have commonly found that cutthroat trout populations that have introgressed at low levels, less than 10 percent introgression (UDWR 2000, pp. 1–9), with nonnative species or subspecies appear to retain morphological, behavioral, and ecological characteristics of their nonintrogressed ancestors. In addition, some published, peer reviewed studies have shown that individuals of a particular cutthroat trout subspecies may possess nuclear genes from another taxon detectable only by molecular genetic techniques, while still conforming morphologically, behaviorally, and ecologically to the scientific taxonomic description of the parental native species (e.g., Busack and Gall 1981, pp. 948–950; Weigel et al. 2002, pp. 397–401).

We do not consider populations or individual fish conforming morphologically to the scientific taxonomic description of CRCT to be a hybridization threat to CRCT. Although such individuals may have genes from another taxon at low frequency (less than 10 percent), we are not aware of any information to suggest that such individuals express behavioral, ecological, or life-history characteristics differently than CRCT native to the particular geographic area. We expect the frequency of genes from the other taxon to remain low in the CRCT population for three reasons: (1) 89 percent of occupied habitat is in fair to excellent condition, which may provide an advantage for native CRCT survival (Busack and Gall 1981, pp. 948–950; Campton and Kaeding 2005, pp. 1323–1324); (2) stocking of nonnative trout in CRCT habitat is no longer practiced by fish and wildlife agencies; and (3) 66 percent of CRCT populations are isolated by human-caused or natural barriers, protecting them from increasing numbers of nonnative trout. If the populations or individual fish in question carry a low level of nonnative genetic material, they would be morphologically indistinguishable from CRCT, and therefore, any behavioral or life history attributes that might be inconsistent with what is normal for CRCT would be virtually impossible to detect. Furthermore, we have maintained that some introgressed populations may be valuable to the overall conservation and survival of a species or subspecies (Campton and Kaeding 2005, pp. 1323–1324; USFWS 2003, pp. 46992–46993).

Our criteria for considering potentially introgressed populations of CRCT are consistent with a Position

Paper titled “Genetic Considerations Associated with Cutthroat Trout Management,” developed by the fish and wildlife agencies of the intermountain western States (UDWR 2000, pp. 1–9). That document identifies, for all subspecies of inland cutthroat trout, three tiers of natural populations for prioritizing conservation and management options under the State fish and wildlife management authorities: (1) Core conservation populations composed of greater than 99 percent cutthroat trout genes; (2) conservation populations that generally “have less than 10 percent introgression, but in which introgression may extend to a greater amount depending upon circumstances and the values and attributes to be preserved”; and (3) cutthroat trout sport fish populations that, “at a minimum, meet the species” (e.g., CRCT) phenotypic expression defined by morphological and meristic characters (counts of body parts) of cutthroat trout.” Conservation populations of cutthroat trout also may include those believed to have uncommon, or important, genetic, behavioral, or ecological characteristics relative to other populations of the subspecies under consideration. Sport fish populations are those that conform morphologically (and meristically) to the scientific taxonomic description of the subspecies under consideration, but do not meet the additional criteria of “conservation” or “core” populations and hence are managed for their value as a sport fish population rather than their value to the conservation of the subspecies. The implicit premise of the Position Paper is that populations must conform, at a minimum, to the morphological and meristic characters of a particular cutthroat trout subspecies in order for those populations to be included in a State’s conservation and management plan for that subspecies. To qualify as core or conservation populations, the standards are somewhat higher. Signatories to the Position Paper are the CDOW; Idaho Department of Fish and Game; Montana Fish, Wildlife and Parks; Nevada Division of Wildlife; New Mexico Game and Fish Department; UDWR; and WGFD.

The species criteria described above are consistent with the best scientific and commercial data available because they are based on: (a) The criteria by which taxonomic species of fish are recognized scientifically, and (b) the biological relationship between those taxonomic criteria and levels of genetic introgression detected by molecular

genetic methods in natural populations of CRCT. These criteria exclude from CRCT considered for listing all genetically introgressed populations and individual fish that do not conform morphologically to the scientific taxonomic description of the subspecies. These criteria are further justified for this subspecies because—(a) there are no generally applicable standards for the extent of hybridization considered acceptable under the Act; and (b) decisions regarding status of CRCT under the Act must be made for the entire subspecies.

Consequently, any natural population conforming to the scientific taxonomic description of CRCT and meeting the more conservative State position paper standards as a core or conservation population (UDWR 2000) will be considered CRCT under the Act. Populations failing to meet that standard (e.g., cutthroat trout sport fish populations) will not be considered CRCT under the Act.

When CRCT are sympatric with rainbow trout and nonnative subspecies of cutthroat trout, they are known to produce introgressed populations. Genetic status of CRCT was summarized in the rangewide status report (Hirsch et al. 2006, pp. 18–19). Genetic testing has been conducted in more than 1,851 km (1,150 mi) of occupied habitats (38 percent of occupied habitat). It is important to recognize that the testing was not conducted in a random fashion, but testing in general occurred in more accessible populations and in newly discovered populations. Test results showed no evidence of introgression in samples from 1,258 km (782 mi) of occupied habitat (68 percent of the tested area and 26 percent of occupied habitat). An additional 756 km (470 mi) of occupied habitat (16 percent of occupied habitat) was identified as having populations that are suspected to be genetically unaltered. This determination is based on the absence of introduced hybridizing species and no records of stocking hybridizing species, good meristic characteristics, or a population adjacent to a pure population. These populations are considered core conservation populations by the CRCT Coordination Team. There are 153 core conservation populations extant in all 8 GMUs (Hirsch et al. 2006, p. 33).

Testing found hybridized fish present in approximately 591 km (367 mi) of stream (12 percent of occupied habitat). An additional 2,167 km (1,334 mi) of habitat (44 percent of occupied habitat) was identified as containing fish that are potentially hybridized, based on the presence of nonnative hybridizing

species or stocking records that indicate past stocking of nonnative hybridizing species.

An assessment of genetic contamination risk was conducted for all CRCT conservation populations, based on proximity and accessibility of rainbow trout and nonnative cutthroat trout to the conservation population (Hirsch et al. 2006, p. 38). A low genetic risk rating was given to populations where hybridizing species or subspecies were greater than 10 km (6 mi) from the CRCT population. A moderate risk rating was given when hybridizing species or subspecies were within 10 km (6 mi) of the CRCT population. Of the 285 conservation populations, 150 (53 percent) were ranked as having no risk of genetic contamination, due to the presence of a secure barrier that prevents invasion of nonnative species. An additional 10 percent of the populations were rated as having low risk of genetic contamination and 29 percent were rated as moderate risk. Only 8 percent of the populations were considered at high risk for genetic contamination (Hirsch et al. 2006, p. 38). Most populations that were rated with no or low risk of genetic contamination are isolated populations.

Recent unpublished genetic studies have examined the genetic material from selected populations of CRCT and greenback cutthroat trout in Colorado. These studies used three different mitochondrial DNA (deoxyribonucleic acid) analytical techniques to examine the genetic makeup of the sampled populations to assist in determining subspecies association. The studies included several hundred individual fish from more than a dozen populations from the Colorado, Arkansas, and South Platte River drainages. All three techniques were used on each individual fish, and the results appear consistent for all three methods. The unpublished study indicates that the subspecies status of three conservation populations that were identified as CRCT (Hirsch et al. 2006, pp. 29–30) in the Colorado River basin may be in question. We consider these unpublished studies preliminary and not an appropriate basis for removal of these populations from the CRCT conservation population database. However, if 3 populations were determined not to be conservation populations of CRCT, the overall status of the subspecies would not change because more than 280 conservation populations would remain in Colorado, Utah, and Wyoming. We will continue to monitor the genetic status of the conservation populations as ongoing

and new studies provide new information.

The State of Utah discontinued stocking of nonnative cutthroat trout by 2000, and in 2002 discontinued stocking rainbow trout in most streams; it now only stocks sterile rainbow trout in areas that have no connection to CRCT habitat. Stocking of nonnative fishes no longer occurs near conservation populations. The CDOW and WGFD also prohibit stocking of nonnative fishes into conservation populations. These management practices should minimize the likelihood of further hybridization with nonnative cutthroat trout.

#### *Summary of Factor E*

We conclude that the best scientific and commercial information available indicates that risk associated with fragmentation and isolation of small CRCT conservation populations, including stochastic risk from catastrophic natural events, has not affected the status of CRCT to the extent that listing under the Act as a threatened or endangered species is warranted.

We also conclude that the best scientific and commercial information available to us indicates that introgressive hybridization with rainbow trout or other cutthroat subspecies has not affected the status of CRCT to the extent that listing under the Act as a threatened or endangered species is warranted. However, we will continue to evaluate new information that may be available regarding these and other threats, and we urge the public to submit to us any new information that becomes available concerning the status of or threats to CRCT.

#### **Conclusion**

In the context of the Act, the term “threatened species” means any species (or subspecies or, for vertebrates, distinct population segments) that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The term “endangered species” means any species that is in danger of extinction throughout all or a significant portion of its range. The Act does not indicate threshold levels of historic population size at which, as the population of a species declines, listing as either “threatened” or “endangered” becomes warranted. Instead, the principal considerations in the determination of whether or not a species warrants listing as a threatened or an endangered species under the Act are the threats that now confront the

species and the probability that the species will persist in “the foreseeable future.” The Act does not define the term “foreseeable future.” However, we consider the “foreseeable future” to be 20 to 30 years, which equates to approximately 4 to 10 CRCT generations, depending on the productivity of the environment. We find that this is both reasonable and appropriate for the present status review because it is long enough to take into account multi-generational dynamics of life-history and ecological adaptation, yet short enough to incorporate social and political change that affects species management.

Evidence exists that populations of CRCT have been greatly reduced over the last 200 years, with much loss occurring in the late 19th and early 20th century (Behnke 1992, pp. 139–145). Recent surveys have found that the number of populations of CRCT have increased in the last 3 decades and the subspecies remains widely distributed throughout a large geographic area. We attribute the decline in the distribution of CRCT to the introduction of nonnative sport fish into CRCT habitat that began in the late 1800s. The wide distribution of rainbow trout and nonnative cutthroat trout caused problems through competition, hybridization, and predation. The introduction of brook trout in CRCT habitat displaced CRCT by competition. These introduced fish have expanded and colonized new habitat and formed naturally reproducing populations that occupy the former, and in some cases current, range of CRCT.

We find there is no evidence of major declines in the overall distribution or abundance of CRCT over the last several decades. Conversely, there is evidence of a substantial increase in the number of known populations (Hirsch et al. 2006, p. 62). Management agencies have increased their focus on the protection and restoration of conservation populations of CRCT in all watersheds currently occupied. Corresponding emphasis is occurring on habitat restoration activities and fisheries management actions, such as restrictive angling regulation changes, designed to benefit CRCT. For many of these actions, it is too early to judge their success. Some of these actions appear to have resulted in improved population levels in some areas.

It is important that the status and distribution of CRCT continue to be monitored. We find that the management agencies are contributing substantial resources in that regard, and we believe the planned annual update of the CRCT database by the CRCT

Conservation Team will become an important document to evaluate future population status changes.

### Significant Portion of the Range

Pursuant to the Act and our implementing regulations, a species may warrant listing if it is threatened or endangered in a significant portion of its range. We evaluated the CRCT throughout its current range to determine if any portion is likely to become threatened or endangered within the foreseeable future, and if so, whether that portion is significant relative to the remainder of the species' range. Based on the available information regarding the abundance of CRCT throughout its current range, and our assessment of threats to the species throughout its current range, we find that no GMU is likely to become threatened or endangered in the foreseeable future. We assessed threats at the watershed-based GMU level, because standardized fish monitoring methods are watershed based. We do not believe that a more subdivided segment of habitat would be significant. For an area to be significant, it must meaningfully contribute to the resilience, redundancy, or representation of a species. We do not believe that areas smaller than the GMU would meaningfully contribute to those qualities in this species. Losses of habitat or species from areas smaller than the GMU level would not threaten the entire GMU, and a sufficient number of GMUs exist to ensure species redundancy and resiliency. No significant ecological differences exist at levels smaller than the GMUs to affect representation of the subspecies. Threats are similar in all eight GMUs, and no individual GMU has threats such that the subspecies is threatened or endangered within it. Therefore, we have determined that no significant portion of the CRCT range is threatened or endangered.

### Finding

On September 7, 2006, the Court ordered the Service to produce a status review and 12-month finding for CRCT by June 7, 2007. The information summarized in this status review includes substantial information that was not available at the time of the 90-day finding (69 FR 21151), in particular, the information obtained from Hirsch et al. (2006) and other information we received during the public comment period. Because we relied heavily upon Hirsch et al. (2006), we conducted a peer review of the document. Peer reviews were conducted by five recognized cutthroat trout experts who

found that the Hirsch et al. document provided sound scientific data on the rangewide status of CRCT.

We found that at least 285 CRCT populations collectively occupy about 2,892 km (1,796 mi) of stream habitat in 42 watersheds in Colorado, Utah, and Wyoming. These populations qualify as "conservation" populations of CRCT under standards the States proposed and that are consistent with our assessment of best available science. The populations are distributed throughout the eight GMUs in the historic range of the CRCT. Of the 285 conservation populations identified by Hirsch et al. (2006), about 153 (55 percent) are considered "core conservation populations" comprised of nonintrogressed CRCT (greater than 99 percent genetic purity).

Although we determined that distribution of CRCT has been reduced from historic levels (the subspecies now occupies about 13 percent of historic habitat), and existing populations continue to face adverse impacts in most of the historic range, we find that the magnitude and imminence of those impacts do not indicate that the subspecies is likely to become an endangered species within the foreseeable future, which we define as 20 to 30 years, approximately 4 to 10 CRCT generations. This timeframe is long enough to take into account multi-generational dynamics of life history and ecological adaptation, yet short enough to incorporate social and political change that affects species management.

Many former threats to CRCT, such as those posed by excessive harvest by anglers or the ongoing stocking of nonnative fishes, are no longer factors that threaten the continued existence of CRCT.

Hybridization, mostly with nonnative rainbow trout and nonnative subspecies of cutthroat trout, which have established self-sustaining populations in many areas in the range of CRCT, remains an issue of management concern in the form of introgression to CRCT conservation populations. Our finding allows for the limited presence of genetic material from other fish species or subspecies (typically less than 10 percent) in CRCT conservation populations. We do so because individuals or populations with a low level of introgression are morphologically, ecologically, and behaviorally indistinguishable from nonintrogressed (i.e., pure) CRCT. We consider slightly introgressed CRCT populations, with low amounts of genetic introgression detectable only by molecular genetic methods (i.e.,

"conservation populations"), to be a potentially important and a valued component overall for CRCT conservation. Many genetically pure populations (153 core conservation populations) remain throughout the current range of CRCT. State and Federal agencies are implementing measures to protect these populations from invasion of nonnative species or subspecies that may interbreed with CRCT.

Competition from nonnative trout, especially brook trout, is recognized as an ongoing issue of management concern with CRCT. Brook trout are the most common nonnative trout sympatric with CRCT populations; however, many populations do not have brook trout present. Brook trout are no longer stocked in CRCT waters and measures to minimize impacts of brook trout, such as placement of barriers and brook trout removal have been implemented for many populations.

The CRCT remains a widely distributed subspecies and there are numerous CRCT populations and some metapopulations throughout the historic range. Moreover, numerous nonintrogressed CRCT populations are distributed in secure habitats throughout the subspecies' historic range. Ongoing conservation efforts, while important, were not pivotal to our decision to find this action not warranted. That decision was based mainly on the present-day status of CRCT, the mitigation of existing threats, and the existence of laws and regulations that work to minimize adverse effects of land management and other activities on CRCT.

On the basis of the best available scientific and commercial information, which has been broadly discussed in this notice and detailed in the documents contained in the Administrative Record for this decision, we find that the CRCT is not now in danger of extinction (endangered), nor is it likely to become endangered within the foreseeable future (threatened). Therefore, listing of the CRCT as a threatened or an endangered species under the Act is not warranted at this time.

### References Cited

A complete list of all references cited herein is available upon request from the Supervisor at the Western Colorado Ecological Services Office (see **ADDRESSES**).

### Author

The primary author of this document is Patty Schrader Gelatt (see **ADDRESSES**).

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 5, 2007.

**Kenneth Stansell,**

*Acting Director, U.S. Fish and Wildlife Service.*

**BILLING CODE 4310-55-P**

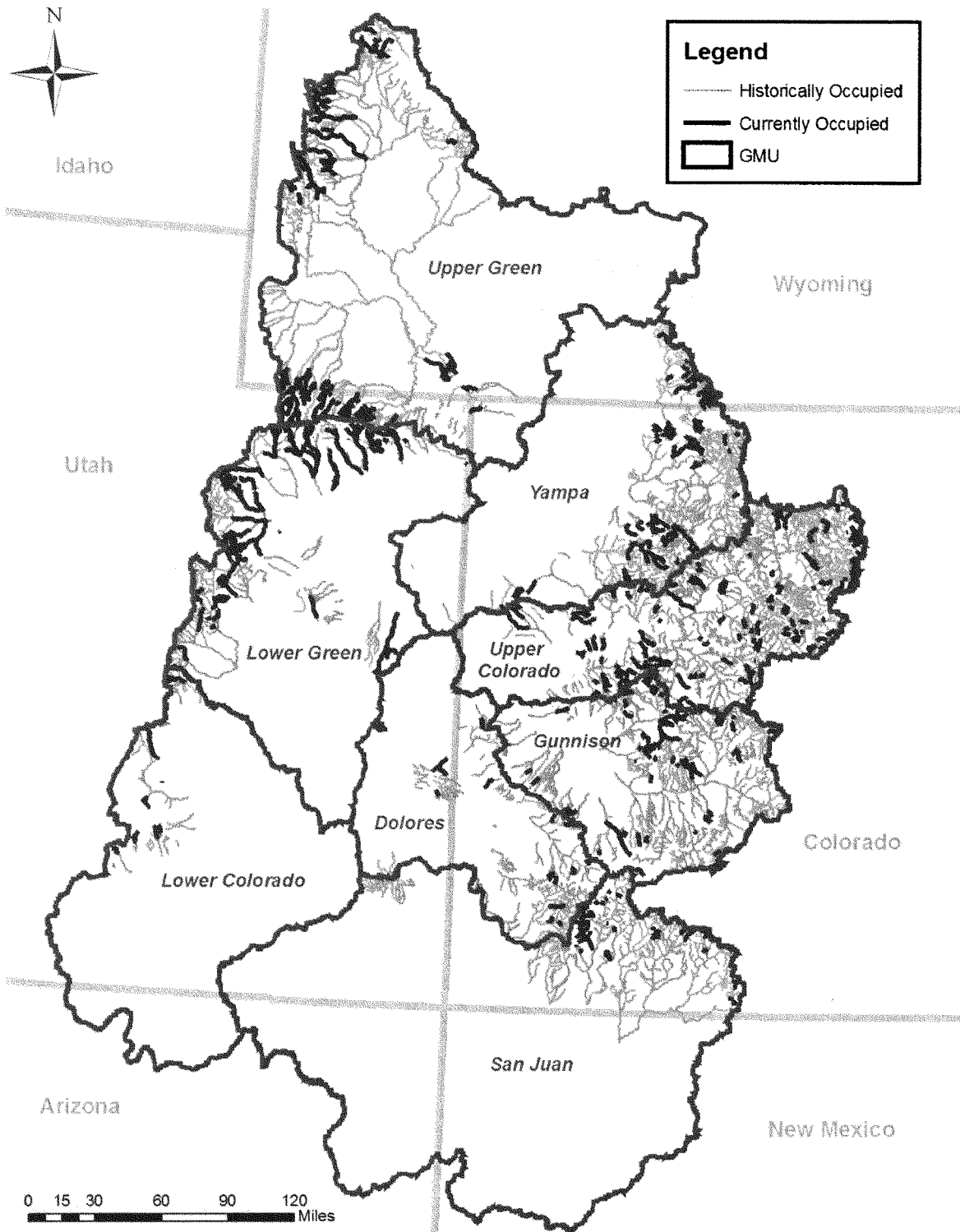


Figure 1. All CRCT Populations

TABLE 1.—FROM HIRSCH ET AL. 2006, TABLE 2 (PP. 14–15), TABLE 19 (P. 32)

GMU name	Currently occupied (km/mi)	Total currently occupied (%)	Number of conservation populations	Occupied by conservation populations (km/mi)
Upper Colorado River .....	966/600	19.9	75	486/302
Gunnison River .....	470/292	9.7	25	148/92
Dolores River .....	95/59	2.0	4	22/14
Upper Green River .....	1,112/691	22.9	76	1,046/650
Yampa River .....	650/404	13.4	53	546/339
Lower Green River .....	1,273/791	26.2	26	494/307
Lower Colorado River .....	103/64	2.1	14	80/50
San Juan River .....	191/119	3.9	12	68/42





Figure 2. CRCT Conservation Populations

[FR Doc. 07-2915 Filed 6-12-07; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 224**

[I.D. 021607C]

**Endangered and Threatened Species. Proposed Endangered Status for the Cook Inlet Beluga Whale; Public Hearings**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public hearings.

**SUMMARY:** On April 20, 2007, NMFS proposed the listing of the Cook Inlet beluga whale as an endangered species under the Endangered Species Act of 1973 (ESA). As part of that proposal, NMFS announced a public comment period to end on June 19, 2007, and then extended the comment period to August 3, 2007. NMFS has received requests for public hearings on this issue. In response, NMFS is announcing that public hearings will be held at two locations in Alaska to provide additional opportunities and formats to receive public input.

**DATES:** The hearings will be held on July 19, 2007, from 6 to 9 p.m. in Homer and on July 20, 2007, from 3:30 to 6:30 p.m. in Anchorage, AK. Written comments must be received by August 3, 2007.

**ADDRESSES:** The July 19, 2007, hearing will be held at the Maritime Refuge, Island and Oceans, 95 Sterling Highway #1, Homer, AK. The July 20, 2007, hearing will be held in the Loussac Public Library, Wilda Marston Room, 3600 Denali Street, Anchorage, AK.

Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska

Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- E-mail: *CIB-ESA-Endangered@noaa.gov*.

Include in the subject line the following document identifier: Cook Inlet Beluga Whale PR. E-mail comments, with or without attachments, are limited to 5 megabytes.

- Webform at the Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions at that site for submitting comments.

- Mail: P. O. Box 21668, Juneau, AK 99802.

- Hand delivery to the Federal Building : 709 W. 9<sup>th</sup> Street, Juneau, AK.

- Fax: (907) 586-7557.

**FOR FURTHER INFORMATION CONTACT:** Brad Smith, NMFS, 222 West 7th Avenue, Anchorage, Alaska 99517, telephone (907) 271-5006; Kaja Brix, NMFS, (907) 586-7235; or Marta Nammack, (301) 713-1401.

**SUPPLEMENTARY INFORMATION:****Background**

On April 20, 2007, NMFS published a proposed rule (72 FR 19854) to list the Cook Inlet beluga whale as an endangered species under the Endangered Species Act of 1973 (ESA), as amended. This action followed completion of the Cook Inlet beluga whale status review, which found this population to be at risk of extinction within the next 100 years and described NMFS' determination that this population constitutes a "species", or distinct population segment under the ESA.

**Public Hearings**

Joint Commerce-Interior ESA implementing regulations state that the Secretary shall promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed regulation to list a species or to designate critical habitat (see 50 CFR 424.16(c)(3)). In past ESA rule-making NMFS has conducted traditional public hearings, consisting of

recorded oral testimony from interested individuals. This format, although providing a means for public input, does not provide opportunities for dialogue and information exchange. NMFS believes that the traditional public hearing format can be improved upon by also including a brief presentation on the results of the Cook Inlet beluga Status Review and other topics of interest.

The preferred means for providing public comment to the official record is via written testimony prepared in advance of the meeting which may also be presented orally. Blank "comment sheets" will be provided at the meetings for those without prepared written comments, and opportunity will also be provided for additional oral testimony. There is no need to register for these hearings.

In scheduling these public hearings, NMFS has anticipated that many affected stakeholders and members of the public may prefer to discuss the proposed listing directly with staff during the public comment period. These public meetings are not the only opportunity for the public to provide input on this proposal. The public and stakeholders are encouraged to continue to comment and provide input to NMFS on the proposal (via correspondence, e-mail, and the Internet; see **ADDRESSES**) up until the scheduled close of the comment period on August 3, 2007.

**References**

The proposed rule, status review, maps, a list of the references cited in this document, and other materials relating to the proposed listing can be found on the NMFS Alaska Region Web site <http://www.fakr.noaa.gov/>.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: June 8, 2007.

**Wanda L. Cain,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E7-11420 Filed 6-12-07; 8:45 am]

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