



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



In Reply Refer To:
FWS/D-SCI/034221

JAN 04 2008

Mr. Kent Holsinger
Holsinger Law, LLC
350 Indiana Street, Ste 640
Golden, Colorado 80401

Dear Mr. Holsinger:

The U.S. Fish and Wildlife Service (FWS) and U.S. Geological Survey (USGS) received your appeal of their response to your March 15, 2006, Information Quality Act (IQA) request for correction regarding the Preble's meadow jumping mouse on October 4, 2007. On page 4, the appeal indicates that it is directed toward: "(1) dissemination of information by the FWS regarding the data used in a report conducted by Dr. Tim King of the U.S. Geological Survey ("USGS") and issued to the FWS on January 27, 2006, the *Comprehensive Analysis of Molecular Phylogeographic Structure Among the Meadow Jumping Mice (Zapus hudsonius) Reveals Evolutionary Distinct Subspecies* (the "King study") and its supplements or amendments, if any; (2) the FWS' failure to address significant distribution, abundance and trends ("DAT") data from the CWCD and Wyoming petitions to delist in the *Proposed Rule to Remove the Preble's Meadow Jumping Mouse from the Federal List of Endangered and Threatened Species* ("Proposed Rule") 70 Fed. Reg. 5404 (Feb. 2, 2005); and (3) any and all other issues raised in the March 15, 2006 Challenge."

A panel composed of persons from the National Park Service, USGS, and FWS was convened to review the appeal. The panel evaluated the original request for correction, the response prepared by the FWS and USGS, the appeal, and the additional information provided in the appeal.

A response to each of the three issues appealed is provided below.

Issue 1: Dissemination of the King study. The issue before the FWS and USGS is whether the additional information provided in the appeal or any shortcomings identified by the panel in the preparation of the original response should compel them to change their previous determination that the King study meets FWS and DOI guidance implementing IQA. The panel found that the King study was subjected to internal (USGS) and external (non-DOI) peer review prior to dissemination by the FWS. This peer review process meets appropriate peer review requirements in DOI. In addition, the King study was subjected to further peer review when the U.S. Fish and Wildlife Service asked the same 16 reviewers to review the King study that had reviewed the Ramey studies. The U.S. Fish and Wildlife Service also commissioned

the Sustainable Ecosystems Incorporated panel of scientists to review the King and Ramey studies.

Finally, the King study underwent peer review by the scientific journal in which it was published. The exhibits in the appeal reiterate concerns in the original request for correction and do not appear to provide any new information bearing on the quality of the King study. Instead, the exhibits appear to focus more on issues of conceptual approach between King and Ramey, policy regarding the issue of subspecies delineation, and interpretation of data. As a result, no correction of information is necessary.

Issue 2: Distribution, abundance and trends data. The panel found no basis to recommend that the FWS overturn its original determination that the issue before it in the proposed delisting was whether the Preble's meadow jumping mouse was a "listable entity" under the Endangered Species Act. The response to the original request for correction made it clear that the distribution, abundance, and trends information would be addressed once a determination had been made on the listable entity question. In fact, the FWS has issued another proposed rule which provides its determination on the listable entity question and considers the results of a threats analysis that considers distribution, abundance and trends data. As a result, no correction of information is necessary.

Issue 3: Any and all other issues raised in the March 15, 2006, request for correction. The panel believes that all issues raised in the original request for correction were addressed adequately. Further, the panel considers this issue as raised in the appeal to be insufficiently specific because it appears that the appeal is requesting that the original response be reconsidered in its entirety without the appellants providing specific information to warrant such reconsideration.

The FWS is accepting public comments on the new proposed rule regarding Preble's meadow jumping mouse until January 22, 2008. The appellants are encouraged to submit comments on their interpretation of the science provided in the King study as well as the threats analysis conducted by FWS in regard to distribution, abundance and trends information.

Thank you for your interest in this issue.

Sincerely,



DIRECTOR, FWS



DIRECTOR, USGS