

Before the U.S. Department of the Interior

**U.S. Fish and Wildlife Service
Washington, D.C.**

COLORADANS FOR WATER
CONSERVATION AND DEVELOPMENT

COLORADO FARM BUREAU

October 3, 2007

v.

U.S. DEP'T OF THE INTERIOR

**Information Quality Act Appeal to
U.S. Fish and Wildlife Service and
U.S. Geological Survey for
Dissemination of Information
on the Preble's Meadow Jumping
Mouse**

**APPEAL OF THE COLORADANS FOR WATER CONSERVATION
AND DEVELOPMENT AND COLORADO FARM BUREAU
PURSUANT TO THE DATA QUALITY ACT**

To: Correspondence Control Unit
Attention: Information Quality Correction Request Processing
U.S. Fish and Wildlife Service
1849 C Street, NW Mail Stop 3238-MIB
Washington, D.C. 20240-0001

I. Introduction

The Coloradans for Water Conservation and Development (“CWCD”) and Colorado Farm Bureau (“CFB”) collectively (“Appellants”) hereby submit this Appeal of the U.S. Fish and Wildlife Service (“FWS”) and U.S. Geological Survey (“USGS”)

Response to Appellants' Challenge for Correction of Information ("Response") pursuant to the Federal Information Quality Act, (44 U.S.C. § 3516) ("Data Quality Act" or "DQA"), and implementing guidelines. *See* (67 Fed. Reg. 8452 (Feb. 22, 2002) ("OMB Guidelines")), (67 Fed. Reg. 50687 (Aug. 5, 2002) ("Interior Guidelines")), the U.S. Fish and Wildlife Service Guidelines *available at* <http://irm.fws.gov/infoguidelines/FWS%20Information%20Quality%20Guidelines.pdf> ("FWS Guidelines")) and the USGS Guidelines *available at* http://www.thecre.com/pdf/20021026_usgs-final.pdf collectively known as (the "Guidelines").

On October 1, 2007, Appellants received the Response of the U.S. Fish and Wildlife Service ("FWS") and U.S. Geological Survey ("USGS") to the March 15, 2006 Data Quality Act Challenge ("Challenge") some 555 days after FWS acknowledged receipt of the Challenge. Pursuant to the U.S. Department of the Interior's Information Quality Guidelines, a response was due 60 days after receipt of the Challenge. *See* 67 Fed. Reg. 50687 (Aug. 5, 2002). The FWS Guidelines require a response within 45 days. *See* http://www.thecre.com/pdf/20021026_usgs-final.pdf. Appellants are unaware of any provision in the Data Quality Act for delayed responses based upon "policy issues related to the Endangered Species Act" as specified in the Response. *See* 44 U.S.C. § 3516.

Appellants' efforts have been designed to ensure that the U.S. Fish and Wildlife Service ("FWS") adheres to its commitments to make Endangered Species Act ("ESA") decisions on the best available science. Appellants will be harmed by any decision that does not rely upon sound science consistent with the terms of the ESA and DQA.

The ESA, the DQA and the Guidelines require, respectively, that the FWS rely solely on the best available information and to correct or retract information that does not meet certain standards for quality, objectivity and integrity. Information disseminated by the FWS violates the ESA, DQA and the Guidelines. This Appeal seeks to correct, retract or supplement certain information disseminated by the FWS concurrent with its status review of Preble's.

This Appeal 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.

In support of this Appeal, Appellants hereby incorporate by reference their March 15, 2006 Challenge and the following information (attached):

Exhibit A: Report by Genoma, LLC;

Exhibit B: Ramey *et al.* Response to the [SEI Panel] Report;

Exhibit C: Ramey *et al.* Comments on the report by King;

Exhibit D: Ramey *et al.* Response to Vignieri *et al.* (2006);

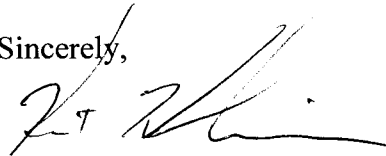
Exhibit E: Crandall, Advocacy dressed up as scientific critique;

Exhibit F: U.S. Senator Wayne Allard letter to Secretary Kempthorne; and

Exhibit G: March 15, 2006 Data Quality Act Challenge.

Appellants respectfully request that you respond to this Appeal within 15 business days from receipt in accordance with the FWS Guidelines. If you have any additional questions regarding this Appeal, please do not hesitate to contact Kent Holsinger at (303) 577-4621. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Holsinger', written in a cursive style.

Kent Holsinger