

public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select "search," then key in the docket identification number, OAR-2002-0076.

**FOR FURTHER INFORMATION CONTACT:** If you would like further information about today's action, contact Kathy Kaufman, Integrated Policies and Strategies Group, (919) 541-0102 or by e-mail [kaufman.kathy@epa.gov](mailto:kaufman.kathy@epa.gov).

**SUPPLEMENTARY INFORMATION:** We have received a request for public hearing on this rulemaking from one commenter, the Center for Energy and Economic Development (CEED). The CEED commented that EPA should not advance either the proposed or direct final rules, and that further opportunity for public comment is needed.

#### List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Nitrogen dioxide, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: August 29, 2003.

**Henry C. Thomas,**

*Acting Director, Office of Air Quality Planning and Standards.*

[FR Doc. 03-22932 Filed 9-8-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 71

[OST Docket No. OST-2000-8013]

#### Standard Time Zone Boundary in the State of North Dakota: Denial of Petition to Change Time Zone Boundary

**AGENCY:** Office of the Secretary, Department of Transportation (DOT).

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** The Chairman of the Board of County Commissioners for Mercer County, North Dakota, petitioned the U.S. Department of Transportation to move Mercer County from the mountain to the central standard time zone. DOT held a hearing in the area and received extensive written public comments.

Based on the information in the docket and the strong objections to a change voiced by the vast preponderance of commenters, we are denying the petition.

**FOR FURTHER INFORMATION CONTACT:**

Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4702.

**SUPPLEMENTARY INFORMATION:** Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce."

In a petition dated August 16, 2000, the Chairman of the Mercer County Board of County Commissioners asked the Department to move the county from the mountain time zone to the central time zone. The Commissioners submitted a memorandum outlining why the change would suit "the convenience of commerce." The petition noted that the issue had been placed on the June 13, 2000, primary election ballot. The results of that election indicated that 1,180 voters favored the change while 1,038 voters opposed the change.

Because of the strong local interest in the proposal, DOT convened a public hearing very early in the process. The hearing took place on September 28, 2000, at the Civic Center in Beulah, ND, and was attended by approximately 100 people. Based on a show of hands conducted several times throughout the evening, approximately one-third of those in attendance supported the change and two-thirds opposed the change. The DOT representative also urged individuals, businesses, and organizations to send written comments to the Department's docket so that all the relevant facts could be collected and considered systematically.

The rulemaking has been extremely controversial in the community. Over 500 written comments were filed in the docket. Some of these comments were petitions signed by hundreds of people. Some people filed more than one comment and signed more than one petition. Even without doing a crosscheck of names, it is clear that the vast majority of people commenting on

the issue in this proceeding opposed the proposed change.

Under the Uniform Time Act, as amended, the Secretary of Transportation can only change a time zone boundary if it would suit "the convenience of commerce." Traditionally, we give great deference to community views on the assumption that the people who would be most affected by a proposed change are in the best position to advise us on the impact.

The proponents of central time made many strong arguments, which generally echoed the points made in the petition. Almost all noted the reliance on goods and services coming from the Bismarck-Mandan area, which is on central time. The closest airport is in Bismarck, most television and newspapers come from Bismarck, and many residents go to the central time zone for work, medical services, and recreation. The coal and energy industry, which is a major employer in the area, is closely tied to central time.

Those favoring the current time observance also made many strong arguments. One of the central themes was that observance of mountain time provides important advantages that make life more convenient, productive, and pleasant.

Many opponents of the change argued that the current time observance affirmatively helps business and is more conducive for farmers. Farmers opposed to the change were concerned about getting replacement parts later in the day and that grain elevators would close an hour earlier. Others anticipated a disruption in the farming day by having to attend to errands or engagements in town that would occur an hour earlier under central time. A number of commenters were concerned that a change would put small, local shops out of business, and negatively impact the overall economic growth of the area. Others noted, and appreciated the fact, that the current observance allows mail delivery one hour earlier.

Some commenters noted that they rely on the local radio station and the two weekly newspapers, rather than on media outlets originating in the central time zone. Others liked the time zone difference because they enjoyed viewing network television broadcasts an hour earlier than they would if the change were made.

Many of the strongest comments argued that the current observance benefits children, education, and family life. Many were concerned about children waiting for buses in the dark on icy, rural roads. Others believed that the current observance was more conducive to learning, after-school

supervision of children, and participation in school and community activities.

Many of the proponents of the status quo argued that the current system works well and causes little confusion. Similarly, most appear to believe that a change would inconvenience them personally and make their lives difficult in some way.

Under the law, we are required to balance all the information in the record. Based on the information presented and the overwhelming community sentiment voiced in the record that a change would not "suit the convenience of commerce," I am hereby denying the petition. The Commission is welcome to file another petition if circumstances change in the future.

Issued in Washington, DC on August 29, 2003.

**Rosalind Knapp,**

*Deputy General Counsel.*

[FR Doc. 03-22921 Filed 9-8-03; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-A145

#### Endangered and Threatened Wildlife and Plants; Withdrawal of the Proposed Rule to List the Mountain Plover as Threatened

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We, the Fish and Wildlife Service (Service), determine that the action of listing the mountain plover (*Charadrius montanus*) as threatened, pursuant to the Endangered Species Act of 1973, as amended (Act), is not warranted, and we consequently withdraw our proposed rule and our proposed special rule. We make this determination because threats to the species as identified in the proposed rule are not as significant as earlier believed, and current available data do not indicate that the threats to the species and its habitat, as analyzed under the five listing factors described in section 4(a)(1) of the Act, are likely to endanger the species in the foreseeable future throughout all or a significant portion of its range.

**ADDRESSES:** The supporting documentation for this rulemaking is available for public inspection, by appointment, during normal business

hours, at the U.S. Fish and Wildlife Service Field Office, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506-3946, telephone; 970-243-2778, facsimile 970-245-6933, or e-mail [al\\_pfister@fws.gov](mailto:al_pfister@fws.gov). Pertinent information also is available at the Web site <http://www.r6.fws.gov/mtnplover/>.

**FOR FURTHER INFORMATION CONTACT:**

Allan Pfister, Assistant Field Supervisor, Grand Junction, Colorado (see **ADDRESSES**), telephone 970-243-2778; facsimile 970-245-6933.

**SUPPLEMENTARY INFORMATION:**

#### Background

The mountain plover (*Charadrius montanus*) is a small bird averaging 21 centimeters (8 inches) in body length and is similar in size and appearance to a killdeer (*Charadrius vociferus*). It is light brown above with a lighter colored breast, but lacks the contrasting dark breastbelt common to most other plovers, including the killdeer. Mountain plovers are insectivores; beetles, grasshoppers, crickets, and ants are its principal food items (Stoner 1941, Baldwin 1971, Rosenberg *et al.* 1991, Knopf 1998).

The mountain plover is associated with shortgrass and shrub-steppe landscapes throughout its breeding and wintering range. Historically, on the breeding range, the plover occurred on nearly denuded prairie dog colonies (Knowles *et al.* 1982, Olson-Edge and Edge 1987) and in areas of major bison concentrations where vegetation was clipped short (Knopf 1997). Currently, the mountain plover also is found on human-made landscapes (*e.g.*, sod farms and cultivated fields) that may mimic their natural habitat associations, and on other sites with little vegetative cover (*e.g.*, alkali flats). As mountain plovers are usually associated with sites that are modified by grazing and digging mammals (kangaroo rat (*Dipodomys* sp.) precincts and California ground squirrel (*Spermophilus beecheyi*) colonies on wintering grounds in California, as well as prairie dog colonies on the breeding grounds), Knopf and Miller (1994) suggested classifying the mountain plover as a species more closely associated with disturbed prairie sites, rather than pristine prairie landscapes.

Mountain plovers nest in the Rocky Mountain and Great Plains States from Montana south to Nuevo Leon, Mexico. Most mountain plovers breed in Montana, Wyoming, and Colorado, with substantially fewer breeding birds occurring in Arizona, Kansas, Nebraska, New Mexico, Oklahoma, Texas, and Utah. Breeding was confirmed in 1999 in Mexico on a Mexican prairie dog

(*Cynomys mexicanus*) colony in the State of Nuevo Leon (Desmond and Ramirez 2002). Nesting habitat in Canada is restricted to southeastern Alberta and southwestern Saskatchewan. Nesting has not been documented in Canada since 1990.

Breeding adults, nests, and chicks have been observed on cultivated lands in Colorado, Kansas, Nebraska, Oklahoma, and Wyoming (Shackford and Leslie 1995; Shackford *et al.* 1999; V. Dreitz, Colorado Natural Heritage Program, in litt. 2003; Young and Good 2000). The majority of mountain plovers winter in California, where they are found mostly on cultivated fields. However, they also can be found on grasslands or landscapes resembling grasslands (Edson and Hunting 1999, Knopf and Rupert 1995, Wunder and Knopf 2003). Wintering mountain plovers also are reported in Arizona, Texas, and Mexico, but fewer have been documented at these locations than in California.

Historically, the mountain plover has been found in a variety of habitats during winter, including grasslands and agricultural fields in California (Belding 1879 in Grinnell *et al.* 1918; Tyler 1916; Grinnell *et al.* 1918; Preston 1981 in Moore *et al.* 1990; Werschkull *et al.* 1984 in Moore *et al.* 1990). Irrigated farmlands—burned Bermuda grass fields and grazed alfalfa fields—in the Imperial Valley of California, where desert scrub has been converted to agriculture within the past 100 years, have become the predominant winter habitat for mountain plovers (Wunder and Knopf 2003, AMEC Earth and Environmental 2003). There, plovers move onto fields for short periods following harvest, especially where the fields are turned over, burned, or grazed by sheep. Insect availability, furrow depth, size of dirt clods, and the vegetation of contiguous land parcels are believed to influence the suitability of individual cultivated fields (E. Marquis-Brong, in litt. 1999). Therefore, while cultivated lands are abundant throughout the Central and Imperial Valleys, not all of them are suitable wintering habitat. Because annual climatic changes in the Central Valley can greatly influence vegetative structure within a given year, mountain plover observations at traditionally occupied sites decline in years when abundant rainfall causes vegetation to become too tall (E. Marquis-Brong, Bureau of Land Management (BLM), in litt. 1999).

Historically, breeding mountain plovers were reported as locally rare to abundant, and widely distributed in the Great Plains region from Canada south