address given below, by January 20, 2004.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Victoria Davis, Permit Biologist).

FOR FURTHER INFORMATION CONTACT: Victoria Davis, telephone 404/679–4176; facsimile 404/679–7081.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following applications for permits to conduct certain activities with endangered species. If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the Service's Regional Office (see **ADDRESSES** section) or via electronic mail (e-mail) to *''victoria_davis@fws.gov''*. Please submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message. If you do not receive a confirmation from the Service that we have received your e-mail message, contact us directly at the telephone number listed above (*see* **FOR FURTHER INFORMATION CONTACT** section). Finally, you may hand deliver comments to the Service office listed above (*see* **ADDRESSES** section).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Applicant: Claudia Frosch, Gulf Shores, Alabama, TE080231–0.

The applicant requests authorization to take (trap, handle, relocate, radio-tag, PIT-tag, and release) the Alabama beach mouse (*Peromyscus polionotus ammobates*) and Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*) while conducting presence and absence studies and population monitoring. The proposed activities would occur on Bon Secour National Wildlife Refuge, Baldwin County, Alabama; Johnson Beach of Gulf Island National Seashore, Escambia County, Florida; Perdido Key State Recreation Area, Escambia County, Florida; and Alabama Point, Baldwin County, Alabama.

Applicant: Jereme N. Phillips, Gulf Shores, Alabama, TE080229–0.

The applicant requests authorization to take (trap, mark, recapture, and release) the Alabama beach mouse (*Peromyscus polionotus ammobates*) while conducting presence and absence studies. The proposed activities would occur on Bon Secour National Wildlife Refuge, Baldwin County, Alabama.

Dated: December 3, 2003.

Jackie Parrish,

Acting Regional Director.

[FR Doc. 03–31185 Filed 12–17–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to Delist the Preble's Meadow Jumping Mouse in Colorado and Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to delist the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) under the Endangered Species Act of 1973, as amended. We find that the petition and additional information in our files did not present substantial scientific or commercial information indicating that delisting may be warranted. We will not be initiating a further status review in response to this petition. We ask the public to submit to us any new information that becomes available concerning the status of or threats to this species. This information will help us monitor and encourage the conservation of this species.

DATES: The finding announced in this document was made on December 11, 2003. You may submit new information concerning this species for our consideration at any time.

ADDRESSES: Questions or information concerning this petition should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 755 Parfet, Lakewood, Colorado 80215. The separate petition finding, supporting data, and comments are available for public review, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Linner at 303–275–2370 (*see* **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information readily available to the Service at the time the finding is made. To the maximum extent practicable, the finding shall be made within 90 days following receipt of the petition and promptly published in the **Federal Register**. Following a positive finding, section 4(b)(3)(B) of the Act requires the Service to promptly commence a status review of the species.

The Preble's meadow jumping mouse is a small rodent in the family Zapodidae and is 1 of 12 recognized subspecies of the species *Zapus hudsonius,* the meadow jumping mouse. Preble's is native only to the Rocky Mountains-Great Plains interface of eastern Colorado and southeastern Wyoming. This shy, largely nocturnal mouse is 8 to 9 inches long (its tail accounts for 60 percent of its length) with hind feet adapted for jumping. It occurs in foothills riparian habitat from southeastern Wyoming to south central Colorado. Preble's meadow jumping mice regularly use upland grasslands adjacent to riparian habitat, and they may be dependent upon some amount of open water. The species hibernates near riparian zones from mid-October to early May. Loss of riparian habitats and other factors associated with urbanization appear to be the major threat to the species.

On August 16, 1994, the Service received a petition from the Biodiversity Legal Foundation to list the Preble's

meadow jumping mouse. On March 15, 1995, the Service published a notice of the 90-day finding that the petition presented substantial information indicating that listing the Preble's may be warranted, and requested comments and biological data on the status of the mouse (60 FR 13950). On March 25, 1997, the Service issued a 12-month finding on the petition action along with a proposed rule to list Preble's as an endangered species and announced a 90-day public comment period (62 FR 14093), with subsequent reopenings of the comment period to gather additional information (62 FR 24387, 62 FR 67041). The Service added the Preble's meadow jumping mouse to the List of Endangered and Threatened Wildlife in 50 CFR 17.11 as a threatened species on May 13, 1998 (63 FR 26517).

On July 27, 1999, the Service received a petition to delist the Preble's, dated July 20, 1999. The Service subsequently received two other petitions to delist the Preble's—one dated July 26, 1999, and one dated August 27, 2000. These petitions are being treated as second petitions for the requested delisting action, and both have been considered in this 90-day finding.

Review of the Petition

In requesting that the Service delist the Preble's, the first petitioner stated that the information available to the Service did not justify a listing and asked the Service to ''set aside'' the Act relative to the Preble's to allow time to gather more information. The third petitioner stated that, because the information available on the Preble's is limited, the Service's listing of the subspecies was ''precipitate and uninformed.'' The Service is mandated to use the best scientific information available at the time we make a decision to list a species (50 CFR 424.11(b)). Once petitioned to list a species, we are under statutory obligations as stated in the Act to complete the petition process. We did extend or reopen the comment period twice and held three public hearings to seek factual reports or information that might contribute to the development of the final rule (63 FR 26517).

The first petitioner stated that additional information was available on trapping conducted by private landowners, the Forest Service, and the State Department of Transportation that the Service did not consider in its 1998 listing and that the Service should set aside the listing to evaluate this new information. The third petitioner stated that the information coming to light in 1999 indicated a plenitude of this subspecies. Trapping conducted by private landowners, the Forest Service, and the Wyoming Department of Transportation in a number of potential habitat sites in the North Platte drainage occurred after the species was listed as threatened in 1998. Although the Service did not have this trapping information available for consideration during preparation of the 1998 listing rule, we did consider in the listing rule that the Preble's likely occurred in these areas because the species historically had been collected there and these areas have suitable habitat for the Preble's. Therefore, the Service took into consideration the likely presence of the Preble's in these surveyed locations in the 1998 listing rule.

The second petitioner stated that the reason for the delisting request was the inability to identify the mouse. We interpret this concern, that is the difficulty in differentiating Preble's from the western jumping mouse in the field, as either a concern that (1) the listing is invalid or (2) the taxonomic entity is not valid. The range of the western jumping mouse (*Zapus princeps*) in Wyoming and Colorado overlaps that of Preble's (Hall 1981), and the two species are similar in their appearance. Despite difficulties in field identification, the Preble's can be differentiated from the western jumping mouse. Compared to the western jumping mouse, the Preble's is generally smaller and has a more distinctly bicolored tail and a less obvious dorsal (back) stripe. A better technique for identification of the Preble's requires skulls of specimens housed in natural history museums, where dental characteristics (such as the presence or absence of a tooth fold on the first lower molar (Klingener 1963, Hafner 1993) or the shape of a tooth cusp) can be seen and used in combination with distribution and elevation. These techniques have been useful scientific tools for almost half a century. A third and more recent technique to identify Preble's uses a combination of skull measurements in addition to the tooth fold (which may not always be reliable by itself due to tooth wear) (Conner and Shenk in press). These techniques accurately identify most of the Preble's specimens. A fourth technique is genetic analysis. Future DNA studies, including a current study being conducted at the Denver Museum of Nature and Science, will go a long way towards resolving some of the few remaining identification inconsistencies.

In addition, ease of field identification is not a threat to be evaluated when making a listing determination. The Act requires that the Service evaluate five factors in determining whether to list a taxon as endangered or threatened. Under section 4(a)(1) of the Act, we must determine whether a species should be listed as threatened or endangered due to one or more of the following five factors—(1) present or threatened destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting the species' continued existence. Our determination is statutorily limited to an evaluation of these five factors.

In response to whether the taxonomic entity is valid, the Code of Federal Regulations (50 CFR 424.11) states that in listing entities as endangered or threatened under the Act, the Service will rely on standard scientifically accepted taxonomy. The Preble's meadow jumping mouse (*Zapus hudsonius preblei*) is a valid, scientifically accepted subspecies of meadow jumping mice (*Zapus hudsonius*) (Krutzch 1954; Clark and Stromberg 1987; Fitzgerald *et al.* 1994).

The third petitioner disagreed with the use of information available on *Zapus hudsonius* and the application of this information to *Zapus hudsonius preblei.* When information specific to a subspecies is lacking, information on the parent species may be the best information available for the Service to use. We must base our determination on the best available scientific information. Many characteristics of the species *Z. hudonius* would generally be applicable to all its subspecies, including *Z. h. preblei.*

The third petitioner stated that the original petition to list the Preble's should not have been given credence because it lacked sufficient information on the Preble's. Under the Code of Federal Regulations (50 CFR 424.13 and 424.14), the Service is required to seriously consider all petitions and utilize all available information, not just the petitioner's, when making its determination. In the 1998 listing rule, we relied on a host of scientific information available on the species concerning the threats it faced and did not make our determination based solely on the information provided in the original petition.

The third petitioner stated that the 1998 listing is inappropriate because of errors in the subspecies' geographical distribution. The third petitioner stated that the Service did not accept the identification of an individual Preble's reportedly found in Las Animas County, Colorado, because it would have raised

questions regarding the subspecies' presence in Huerfano, Costilla, and Pueblo Counties of Colorado. As stated in the 1998 listing rule, the Service did not accept this identification because further morphological analysis determined this individual to be a different species of mouse, the western jumping mouse, not the Preble's.

The third petitioner stated that favorable habitat may occur in other Colorado counties (Gilpin, Clear Creek, Fremont, Teller, Huerfano, and Costilla) that have not been surveyed. Since receipt of the third petitioner's petition, surveys have been undertaken in Fremont and Teller Counties. Gilpin, Clear Creek, and Teller are high-elevation counties west of known Preble's distribution with almost no favorable habitat. The only favorable habitat would occur where these counties meet lower elevation neighboring counties. The lower elevation habitat within the South Platte River drainage in northern Teller County may be occupied by the Preble's near the Jefferson County line. Surveys identified one Preble's mouse at approximately the county line but none upstream within Teller County. The habitat in Teller County is very limited in extent because the elevation rapidly becomes too high upstream from Teller County's border with Jefferson County. Similarly, elevations in Gilpin and Clear Creek Counties are generally too high to support the Preble's. At the eastern edge of both counties, mountain drainages exit into Jefferson County to lower elevation streams characteristic of the subspecies' range. Surveys of lower elevation streams in Gilpin and Clear Creek Counties suggest that habitat is marginal, at best, for the Preble's. Any additional habitat in these counties would not significantly increase the size of the Preble's geographical distribution and, therefore, would not alter the threat analysis in the 1998 listing rule.

Fremont, Costilla, and Huerfano Counties are not likely to support Preble's. Surveys of possibly suitable habitats in Fremont County have failed to document the Preble's (Christina Werner, Colorado Natural Heritage Program, in litt. 2003). While a portion of Huerfano County is within the Arkansas River drainage (where Preble's has been documented in the northernmost part), Huerfano County is even further south of known Preble's range and is even less likely to have suitable habitat for the Preble's. Costilla County is in the Rio Grande drainage. It lies far from known Preble's range, south and west of the Arkansas River drainage and separated by a mountain range.

The third petitioner stated the use of Sherman live traps as a reason why the subspecies' geographical distribution cannot be fixed entirely. The geographical distribution of the subspecies was determined based on small mammal surveys conducted in Colorado and Wyoming over the past 100 years primarily using snaptraps, not Sherman live traps. Therefore, surveys using Sherman live traps were not the primary information used to determine the species' geographical distribution. The use of Sherman live traps in surveying for Preble's became standard methodology in the early 1990s, and information from these surveys has refined but not significantly altered the subspecies geographical distribution.

Additionally, the third petitioner stated that the Service did not accurately identify the Preble's geographical range because of what the petitioner stated were errors in several citations (Whitaker 1972; Compton and Hugie 1993; Harrington et. al. 1995, and Meaney and Clippenger 1996). In defining the geographical distribution, the Service used all scientific information available; it did not rely only upon the citations mentioned by the third petitioner but used other citations as well to give a full picture of the species' range.

The third petitioner cites Shenk (1998) as saying that there is insufficient information on Preble's range and ecology. While Shenk cites gaps in knowledge on the Preble's, Shenk's intent was to identify information needed to support a conservation strategy for the Preble's and was not related to the species' listing.

The third petitioner stated that population declines have not been documented. The Preble's has been extirpated from some historically occupied areas. Surveys have identified various locations where the subspecies was historically present but is now absent (Ryon 1996). Since at least 1991, the Preble's has not been found in Denver, Adams, or Arapahoe Counties in Colorado. Its absence in these counties is likely due to urban development, which has altered, reduced, or eliminated riparian habitat (Compton and Hugie 1993; Ryon 1996).

The third petitioner referred to statements made by unidentified parties about lack of historical information and about additional animals being found. We have addressed the issue of insufficient information in previous paragraphs. We address the issue of additional surveys and documentation of additional populations in response to additional statements by the third petitioner below.

Based on information that (1) the Service has identified numerous known or potential population areas, and (2) there are large numbers of unsurveyed sites, the third petitioner concludes that the Preble's is abundant and has never been threatened.

The Service did identify areas of known or potential Preble's populations to assist local governments and other entities in planning activities (63 FR 66777, December 3, 1998). The sites identified as ''potential'' Preble's population areas had not been surveyed; the presence of Preble's in these locations was considered possible, but had not been verified. This list was a preliminary estimate of potential habitat; some of these potential sites have since been found not to have suitable habitat and/or not to support Preble's populations. The potential habitats since found to support Preble's continue to be subject to the threats listed in the 1998 listing rule.

The third petitioner asserts that the numbers of known and potential Preble's habitat indicate its abundance. The list of known or potential populations identifies fragments of the original Preble's habitat. The number of fragments may appear high but represent only a small portion of the original whole. The number of separate sites reflects the amount of fragmentation that has occurred within historic habitat and is an indication of the previous and continuing threats to Preble's habitat described in the 1998 listing rule.

Additional surveys have been undertaken since the 1998 listing rule in some locations throughout the subspecies' range where habitat was believed suitable and where the species was presumed to occur but had not been documented. Some of these surveys verified Preble's presence at the survey locations; others did not. While new populations have been documented and additional animals have been found, the threat analysis in the 1998 listing rule identified significant threats to the subspecies and its habitat throughout most of its range in both known and potentially occupied areas. The newly documented populations remain subject to the threats analyzed in the 1998 listing rule.

The third petitioner stated that there is no rational definition of habitat. Typical habitat for the Preble's comprises well-developed plains riparian vegetation with adjacent undisturbed grassland communities and a nearby water source. Well-developed plains riparian vegetation typically includes a dense combination of grasses, forbs, and shrubs; a taller shrub and tree

canopy may be present (Bakeman 1997). When present, the shrub canopy is often *Salix* spp. (willow), although shrub species including *Symphoricarpus* spp. (snowberry), *Prunus virginiana* (chokecherry), *Crataegus* spp. (hawthorn), *Quercus gambelli* (Gambel's oak), *Alnus incana* (alder), *Betula fontinalis* (river birch), *Rhus trilobata* (skunkbrush), *Prunus americana* (wild plum), *Amorpha fruticosa* (lead plant), *Cornus sericea* (dogwood), and others also may occur (Bakeman 1997; Shenk and Eussen 1998).

Additional research on the species' habitat has supported and refined the definition of habitat used in the 1998 listing rule. This recent information indicates that, although Preble's have rarely been trapped in uplands adjacent to riparian areas (Dharman 2001), detailed studies of the Preble's movement patterns using radio-telemetry found Preble's feeding and resting in adjacent uplands and traveling considerable distances along streams, as far as 1.6 km (1.0 mi) in one evening (Shenk and Sivert 1999a; Shenk and Sivert 1999b; Ryon 1999; Schorr 2001). These studies suggest that the Preble's uses uplands at least as far out as 100 m (330 ft) beyond the 100-year floodplain (Ryon 1999; Tanya Shenk, Colorado Division of Wildlife, in litt. 2002).

The third petitioner also raised several issues specifically dealing with stated increased costs or private property takings or life, health, and safety issues, including disease carried by deer mice. The Code of Federal Regulations (50 CFR 424.11(b)) states that the Service must make determinations based on the basis of the best available scientific and commercial information regarding a species' status, without reference to possible economic or other impacts of such determination.

New Information Available in the Service's Files

In addition to considering information provided by the petitioners, if any, the Service also must consider the information readily available at the time of this finding. Additional information on the Preble's has become available since the species was listed in 1998 and since the petitions were received. As cited earlier, numerous surveys have been undertaken throughout the species' range in suitable habitat areas where the species was presumed to occur but had not been documented. Some of these surveys provided verification of Preble's presence at the survey locations; others did not. The survey results indicate that the species may persist at or may have been extirpated from individual survey locations. Research has been conducted, such as radio-telemetry studies on habitat use and movements by Preble's that has added to current knowledge about the species' biology. There is new information verifying differences in morphological characteristics between *Zapus hudsonius preblei* and related taxa (Connor and Shenk, in press).

Information is available on the presence of and possible increases in threats to Preble's and its habitat throughout a large portion of the species' range, as evidenced by—(1) section 7 consultations conducted to address adverse effects to the Preble's from Federal actions and (2) applications by private parties for permits to take Preble's. The Service is in the process of preparing a recovery plan for the Preble's and is involved in section 7 consultations on Federal activities as well as assisting with the development of Habitat Conservation Plans addressing many private activities. Through these efforts, we are continually reviewing and considering all newly available information regarding the species' abundance and the threats it faces.

Finding

The Service has reviewed the petitions, the material submitted with the petitions and subsequent to the petitions, and additional information in the Service's files. On the basis of the best scientific and commercial data available, the Service finds that the petitions and information in the Service's files do not present substantial information that delisting the Preble's meadow jumping mouse in Colorado and Wyoming may be warranted.

References Cited

A complete list of all references cited in this finding is available, upon request, from the Lakewood, Colorado Fish and Wildlife Office (*see* **ADDRESSES** section).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: December 11, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03–31255 Filed 12–17–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Recovery Plan for *Deinandra conjugens* (Otay Tarplant)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: The U.S. Fish and Wildlife Service (''we''), announces the availability of the Draft Recovery Plan for *Deinandra conjugens* (Otay Tarplant) for public review. This draft recovery plan includes specific criteria and measures to be taken in order to effectively recover the species to the point where delisting is warranted. We solicit review and comment from the public and local, State, and Federal agencies on this draft recovery plan.

DATES: Comments on the draft recovery plan must be received on or before March 2, 2004 to receive our consideration.

ADDRESSES: Hard copies of the draft recovery plan will be available in 2 to 4 weeks. An electronic copy of this draft plan is now available at *http://www.pacific.fws.gov/ecoservices/endangered/recovery/default.* Written request for copies of the draft recovery plan and submission of written comments regarding the plan should be addressed to the Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92009. Supporting documents are available for inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kelly Goocher, Fish and Wildlife Biologist, at the above Carlsbad address (telephone: 760–431–9440).

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants is a primary goal of our endangered species program and the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the Act. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the measures needed for recovery.