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**Testimony
Before the Committee on Resources
United States House of Representatives**

**Hearing on the Abuses of the Endangered Species Act:
The So-Called "Preble's Meadow Jumping Mouse"
September 18, 2006**

Thank you Congresswoman Musgrave, and Chairman Pombo, for holding this field hearing in Colorado and providing an opportunity for us to speak about how the home building industry has been impacted by the erroneous listing of the Preble's Meadow Jumping Mouse.

I would also like to thank you for your tireless efforts to modernize the Endangered Species Act. The erroneous listing of the Preble's Meadow Jumping Mouse is perhaps one of the best illustrations of the inherent flaws in the current Endangered Species Act.

Since 1998, when the mouse was first classified by the U.S. Fish and Wildlife Service as a threatened species under ESA, landowners have paid the price for this decision.

Politics, not science, motivated initial listing of Preble's

One of the most troubling aspects about the listing of the so-called Preble's Meadow Jumping Mouse is that this listing was not motivated by science that suggested that the mouse was a species that warranted the protection of the federal government. The proposed listing was motivated by the political agenda of extreme environmentalists who want to not only limit but also stop economic development along Colorado's Front Range.

These same groups are quick to reject any scientific evidence, no matter how credible, that would suggest the mouse is not only not a distinct subspecies but also so abundant that the population numbers cannot be considered threatened, by any reasonable measure.

Despite the fact that peer-reviewed, published science by Dr. Rob Roy Ramey II proves, using both DNA analysis and trapping data, that the Preble's Meadow Jumping Mouse is not even a distinct subspecies, the environmentalists refuse to acknowledge the facts. Radical organizations, such as the Biodiversity Conservation Alliance, tout the elevated status of the mouse as a tool to stop what they term "uncontrolled urban sprawl in Colorado" and "poorly planned agriculture development in Wyoming."

Since the 1998 listing of the mouse as a threatened species, similar environmentalists have attempted – and failed – to implement a series of draconian growth-control measures. In 2000, voters overwhelmingly rejected a proposed constitutional amendment (Amendment 24) that would have strangled economic development in both urban and rural areas. In subsequent state legislative sessions, the same extreme environmentalists failed to garner support for equally draconian proposals – under both Democratic- and Republican-controlled state legislatures.

What the environmentalists failed to accomplish in the form of onerous land use proposals, they have succeeded to do with the listing of the mouse. The Endangered Species Act was adopted to protect our most vulnerable species – it was not intended to be the vehicle for carrying political agendas that have failed in other legislative venues.

Impacts to Landowners and Home Builders

In 1998, U.S. Senator Wayne Allard and then-Congressman Bob Schaffer objected to the listing based upon the questionable classification of Preble's as a subspecies and the fear

of harsh regulatory impacts to landowners. The concerns expressed by Senator Allard and then-Congressman Schaffer have proved to be true.

Some may argue the Preble's listing has not stopped projects or prevented developments. But the economic impacts from listing are profound. By the Fish and Wildlife's own estimates¹ the listing of the Preble's mouse will cost landowners and local governments up to \$183 million over the course of ten years. Whenever permits are necessary, the cost of compliance with the ESA is high. Required consultations with Fish and Wildlife can delay projects for months on end. Attorneys, biologists and other consultants feed off the frenzy.

The critical habitat land designations stretch from Weld and Larimer counties all the way to Douglas, Jefferson and El Paso counties. Classic Homes, a builder in El Paso County, has incurred several millions of dollars on its projects, alone. Conservative estimates by Classic put the mouse price tag at \$5 million and counting – this does not include incremental costs that will continue as long as the mouse remains a threatened species.

Over the last five years, Classic Homes has had 400 acres sterilized; 200 acres out of a total 450 acres in one project alone – all due to the mouse's protected status. In order to comply with existing regulations resulting from the ESA, Classic Homes spends \$200,000 per year on "mouse consultants." Classic Homes was also required, due to the mouse's protected status, to spend \$2 million to build a bridge over a drainage area. Ordinarily, they would have built box culverts, at a cost of \$700,000.

While Classic Homes has probably incurred the greatest single financial loss due to the mouse, it is far from an isolated incident.

Another landowner's attempts to sell his five acres have been delayed for four years because of the mouse. There, a 404 permit (as required by the Clean Water Act) triggered consultation with the Fish and Wildlife in 2002. First, Fish and Wildlife staff agreed it was not prime habitat. Later, the landowner was told by Fish and Wildlife that he was within 300 feet of the 100 year floodplain and that a habitat conservation plan (HCP) would be required. A consultant was then hired (at considerable expense) to prepare a "low effect" HCP. Later, the landowner was informed a Cultural Resource Survey and Inventory must be completed and vetted by the Colorado Historical Society. After that was done, the landowner was then told his application would have to be redone because the fee had quadrupled. He has been unable to sell his land for four years as a result.

It is important to note that private landowners are not the only entities incurring additional costs to construction projects. The construction costs of desperately needed municipal buildings, county jails and roads have been impacted the expensive red tape that comes with the unfortunate situation of trying to build anything in land considered critical habitat. For these increased costs, we all pick up the tab. The Colorado Department of Transportation was required to spend \$17 million in mouse-related issues,

¹ This figure was derived from the Fish and Wildlife's estimated economic impacts of the critical habitat designation for the Preble's mouse.

as it attempted to work on the intersection of I-25 and Highway 105 – valuable tax resources that could have been used elsewhere.

De-Listing of so-called Preble’s Meadow Jumping Mouse will not result in chaos

Opponents of the de-listing petitions argue that without the protected status of the Preble’s Meadow Jumping Mouse, there will be no way to protect riparian areas along the Front Range. They fail to acknowledge, however, that Colorado’s government, along with a number of local areas have already taken monumental steps to protect, and conserve, riparian areas.

The state of Colorado, in comments made related to the de-listing petition, cited estimates by Great Outdoors Colorado (GOCO) that over one-quarter of a billion dollars has been spent on land acquisition and preservation along the Front Range. On December 1, 2004, GOCO announced an unprecedented \$60 million awards package for land conservation, parts and trails in Colorado – nearly \$23 million of that was spent on land acquisition within the range of the Preble’s meadow jumping mouse. The awards included the following:

- \$11.6 million to conserve 55,400 acres in Larimer County for an combined conservation zone of 144,000 acres;
- \$6.3 million for conservation of more than 2,000 acres in Douglas County; and
- \$5 million for the purchase of 730 acres of prime land in Jefferson County.

Similarly, the land use codes and development standards adopted by many city and county governments to take into account “mouse habitat” would not be voided by a de-listing decision. The City of Fort Collins, for example, requires developments to avoid “natural communities” or habitats including: rivers, streams, lakes and ponds, wetlands and wet meadow, native grasslands, riparian forest, urban plains forest, riparian shrub land and foothills forests.

Conclusion

The erroneous listing of the Preble’s mouse has cost Colorado landowners and businesses millions upon millions of dollars and priceless levels of aggravation and delay. These cost increases impact both private and public entities, diverting limited resources away from programs that are in desperate need of financing.

The Preble’s mouse is far from threatened or endangered – DNA analysis and population numbers presented by the de-listing petitions are peer-review, published and credible. The resources – both financial and time – spent on the Preble’s could be used for a species that is truly in need of protection and conservation efforts. It is a disservice to private landowners, taxpayers and the original intent of the Endangered Species Act.

Thank you, again, for this opportunity to testify today. Please let me know if there is any additional information I can provide or if you have any questions about my testimony.