

**Mr. Jerry Sonnenberg (Sonnenberg Farms)
President
Coloradans for Water Conservation and Development**

**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**

Mr. Chairman, Congresswoman Mugrave, thank you for the opportunity today to testify about our ongoing efforts to petition the U.S. Fish and Wildlife Service to delist the Preble's Meadow Jumping Mouse as a threatened species under the Endangered Species Act.

I am here today as president of Coloradans for Water Conservation and Development, a broad-based coalition of rural and urban business interests. Our charter members include the Denver Metro Chamber of Commerce, Colorado Farm Bureau, Colorado Association of Home Builders, National Association of Industrial and Office Properties and the Southeast Business Partnership. Our charter members came together to form this coalition in the fall of 2003.

Our primary focus is to advocate for the responsible conservation and development of Colorado's water resources. While conservation is an important component to using our water resources efficiently, it is imperative that Colorado increase its ability to store additional water. Water storage benefits farmers and ranchers, it benefits our growing cities and it benefits the environment by helping to ensure that we have water available to meet in-stream flow and recreational demands. Additional water storage will also help maintain riparian areas that are home to many species, including the Preble's meadow jumping mouse.

In many areas along Colorado's Front Range, the protected status of a rodent, which we now know is neither rare nor threatened, continues to place expensive and outrageous demands on those who are attempting to increase our water storage. Parker Water and Sanitation District, a local water provider that is working diligently to increase water storage through the construction of Reuter Hess Reservoir, was forced to spend more than \$1 million to construct "mouse tunnels" under a two-acre pond and condemn land from an unwilling seller in the name of the Preble's mouse. The expansion of Halligan-Seaman Reservoir in Larimer County has been bogged down and delayed to the status of the Preble's meadow jumping mouse.

The Service, in an effort to avoid political pressure, enacted a special rule (a so-called 4(d) Rule) for landowners, and particularly agriculture. Without it, homeowners could have literally been prosecuted for the misdeeds of their house cats. Without it, farmers and ranchers, like me, could have been prosecuted for grazing, haying or maintaining their ditches. While this has provided marginal relief for some landowners, it by no means has relieved the economic burden to private landowners. The bottom line is that unless we can build additional storage to deliver more water to our farms and ranches, the 4(d) ruling provides nominal relief to agricultural producers.

In December 2003, it came to our attention that a study commissioned by the U.S. Fish and Wildlife Service and the State of Wyoming, had definitive proof that the Preble's meadow jumping mouse was not a distinct subspecies and was, what we had always suspected, a common meadow jumping mouse. The study, completed by Dr. Rob Roy Ramey II, then-zoology chair at the Denver Museum of Nature and Science, used state-of-the-art DNA analysis to reach its conclusion.

It also came to our attention that the state of Wyoming was going to file a petition, based on this new scientific evidence (what the Endangered Species Act calls the “best available science”), to seek a de-listing of the mouse from the U.S. Department of Interior. Due to the fact that the mouse’s 1998 listing had strangled water development efforts, Coloradans for Water Conservation and Development filed its own petition on behalf of landowners in Colorado.

From our perspective the decision to de-list should have been merely procedural. We had solid, credible scientific evidence that a species had been erroneously listed five years previously. In fact, the attention given to our petition initially followed the statutory time set forth in the Endangered Species Act – the first time in recent memory that any of us could remember a petition receiving the appropriate attention, in accordance with the Act.

In February 2005, the U.S Fish and Wildlife released a proposed rule to de-list the Preble’s Meadow Jumping Mouse. Unfortunately, the proposed rule failed to acknowledge critical data in our petition, including population and range data and ignores the existing regulatory mechanisms (local land use codes, state permitting requirements) that provide protection for riparian areas. And from this time to the present, the forward progress on our petition to delist has nearly grinded to a halt.

Extreme environmental organizations, such as EarthJustice, the Biodiversity Conservation Alliance and the Center for Native Ecosystems, were outraged at the proposed rule, however, none of these organizations have been able to present any credible evidence from un-biased sources that indicates the Ramey study is flawed in invalid.

Dr. Ramey’s work is extremely incredible and even received commendation from his fellow scientist, Dr. Philip Krutzsch, who is credited with a 1954 study that created the Preble’s meadow jumping mouse. In March 2004, Dr. Krutzsch sent an e-mail to Dr. Ramey that acknowledged the Ramey study “clearly invalidates Z.h. Preblei (Preble’s meadow jumping mouse) and demonstrates its relationship to Z.h. campestris (bear lodge jumping mouse).” Dr. Ramey presented this communication when he testified before a House Resources Committee hearing held in April 2004 in Washington, D.C.

Since the U.S. Fish and Wildlife Service issued the proposed rule eighteen months ago, it has done nothing but undermine and stall efforts to issue a final rule. In November 2005, the Service commissioned additional reviews of the Ramey study, despite the fact that such action violates its own peer-review policy and that Ramey’s study had been published in a leading scientific journal, *Animal Conservation*, nearly four months previously.

In March 2006, CWCD filed a Data Quality Act challenge against the U.S. Department of Interior for its failure to acknowledge the distribution, abundance and trends data, ignoring existing regulatory mechanisms, and relying on the King study (as opposed to the peer-reviewed and published Ramey study).

As a final stall tactic, the Service convened in August of this year, a panel managed by Sustainable Ecosystems Institute (SEI). It concluded that more information was needed to invalidate Preble's as a subspecies. After nine independent reviews and publication in a peer-reviewed journal, SEI concluded we need more information?!

The listing decision was based on a fifty-year old study that used only physical measurements and visual observations based on the review of only four adult museum specimens. The Service now has a state-of-the-art study that uses comprehensive DNA analysis of hundreds, if not thousands, of specimens as well as five-years worth of trapping data to prove that the mouse is prolific in Wyoming and Colorado. What other information could they possibly require?

DNA analysis is credible evidence acknowledged by U.S. courts to exonerate and convict human beings of capital crimes, DNA analysis is credible evidence used by the U.S. Armed Forces to conclusively identify terrorists, and yet DNA evidence is not sufficient enough for the U.S. Fish and Wildlife Service to de-list a common mouse under the Endangered Species Act. If this doesn't illustrate the current problems with the Endangered Species Act, I don't know what will.

In conclusion, the debacle of the Preble's listing has gone on for far too long. It has been nearly three years since the Coloradans for Water Conservation and Development and the State of Wyoming petitioned to de-list Preble's and USFWS has yet to truly consider our petition. The Service needs to act on the sound science it has before it and issue a final rule to delist the Preble's meadow jumping mouse. In order to prevent this kind of quagmire in the future, I respectfully urge Congress to take action to reform the Endangered Species Act so that the U.S. Department of Interior cannot ignore and circumvent sound scientific evidence.

We appreciate anything the Congresswoman, or the Committee, can do to help. Thank you for your time and please don't hesitate to let me know if you need any additional information about any of my testimony today.