

Douglas County) contained roughly 588 active burrows in 1993, when it was estimated to support fewer than 150 rabbits (Gahr 1993). While an additional subpopulation was discovered on private land in northern Grant County in 1997, three of the small subpopulations originally located were extirpated during the 1990s, leaving just three known subpopulations in 1999 (WDFW 2001a).

One of the three remaining sites experienced a catastrophic fire in 1999 and declined to three active burrows, while the newly discovered site in Grant County declined for unknown reasons to two active burrows following the winter of 1999–2000 (WDFW 2001a). These two subpopulations are now thought to be extirpated (WDFW 2001b). In addition, during the winter of 1997–1998, the number of active Columbia Basin pygmy rabbit burrows at the Sagebrush Flat site declined by approximately 50 percent, and has continued to decline each year since (WDFW 2001a). The entire, wild Columbia Basin pygmy rabbit population is now considered to consist of fewer than 30 individuals from just one known subpopulation at the Sagebrush Flat site in Douglas County (D. Hays, pers. comm. 2002).

Although habitat loss and fragmentation have likely played a primary role in the long-term decline of the Columbia Basin pygmy rabbit, it is unlikely that these factors have directly influenced the post-1995 declines at the Sagebrush Flat site and the extirpations of some of the smaller populations (WDFW 2001a). Once populations decline below a certain threshold, they are at risk of extirpation from a number of influences including chance environmental events (e.g., extreme weather), catastrophic habitat or resource failure (e.g., due to fire or insect infestations), predation, disease, demographic limitations, and loss of genetic heterogeneity. The Columbia Basin pygmy rabbit in the wild is currently at such risk and, without intervention, is likely to become extirpated in the near future (WDFW 2001a).

#### Previous Federal Action

We added the pygmy rabbit to our candidate species list on November 21, 1991, as a category 2 species (56 FR 58804). A category 2 species was one for which we possessed information indicating that a proposal to list it as threatened or endangered under the Act was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not available to support a proposed rule. In

a February 28, 1996, notice, we discontinued the designation of category 2 species as candidates for listing under the Act (61 FR 7596). The Columbia Basin pygmy rabbit was not included as a candidate for listing in this notice.

In FY 2001, the Service was nearly faced with a situation where it could not comply with all its court orders. Early in calendar year 2001, it became apparent that the cost of compliance with existing court orders exceeded our FY 2001 listing funding. After more than 6 months of negotiating, the Service was able to reach an agreement with several plaintiffs that allowed us to postpone a few actions previously scheduled for work in FY 2001. This agreement allowed us to reallocate funding to complete court-ordered work as well as some listing actions. On August 28, 2001, we reached an agreement with the Center for Biological Diversity, Southern Appalachian Biodiversity Project, and the California Native Plant Society to complete work on a number of species proposed for listing. Under this agreement, we were required to issue several final listing decisions, propose a number of other species for listing, and review three species for emergency listing, including the Columbia Basin DPS of the pygmy rabbit (Center for Biological Diversity, *et al. v. Norton*, Civ. No. 01–2063 (JR) (D.D.C.), entered by the court on October 2, 2001).

On November 30, 2001, we published an emergency rule to list the Columbia Basin pygmy rabbit as endangered (66 FR 59734). We found that emergency listing action was justified because immediate and significant risks to the well-being of this DPS existed due to its recent decreases in population size and distribution over the past several years. Our November 30, 2001, emergency rule provided Federal protection to the Columbia Basin pygmy rabbit pursuant to the Act for a period of 240 days. Concurrently with the emergency rule, we also published a proposed rule to list this DPS as endangered under our normal listing procedures (66 FR 59769). On February 7, 2002, we published a notice in the **Federal Register** extending the comment period for the proposed rule through February 28, 2002 (67 FR 5780). The comment period was reopened to accommodate requests by State resource agencies and private interests for additional time to provide input. On February 12, 2002, we held a public meeting in East Wenatchee, Washington, to discuss the proposed rule with any interested parties. On July 17, 2002, we published a notice in the **Federal Register** extending the comment period for the

proposed rule through August 1, 2002 (67 FR 46951).

In accordance with section 10(a)(1)(A) of the Act, on December 18, 2001, we issued a recovery permit to the WDFW (TE050644) for their ongoing management actions to protect and conserve the Columbia Basin pygmy rabbit (see Current Management Actions, below). We issued revisions to this permit on January 10, 2002, and March 18, 2002. We also published notices in the **Federal Register** on December 19, 2001, and March 20 and April 3, 2002, describing the emergency circumstances, announcing receipt of permit applications, and issuing public notice exemptions concerning this permit and its revisions (66 FR 65508, 67 FR 15825, 67 FR 13004).

#### Current Management Actions

The WDFW has undertaken a variety of conservation actions for the Columbia Basin pygmy rabbit since 1979 (WDFW 1995a, 2001a). These actions have included population surveys, habitat inventories, land acquisitions, habitat restoration, land management agreements, initiation of studies on the effects of livestock grazing, and predator control. These efforts have been funded by a variety of sources. As funding sources and staffing levels allow, WDFW efforts to conserve the Columbia Basin pygmy rabbit in the wild will continue (D. Hays, pers. comm. 2002).

During the fall of 2000, the WDFW, in cooperation with the Oregon Zoo, initiated a study of husbandry techniques for pygmy rabbits (WDFW 2001a). This study used five pygmy rabbits captured in Idaho and was undertaken to improve the information base for proposed captive propagation and release efforts for the Columbia Basin pygmy rabbit. Due to the continuing decline of pygmy rabbit subpopulations and active burrows in Washington, the WDFW, in cooperation with WSU, expedited their captive propagation efforts for the Columbia Basin pygmy rabbit during the spring of 2001 (WDFW 2001b; D. Hays, pers. comm. 2001).

The main goal of this effort is to capture up to 20 individuals to establish a captive breeding stock. The actual number and type (gender, age, family unit) of pygmy rabbits to be taken from the wild is based partly on information from the ongoing husbandry study of Idaho pygmy rabbits, partly on estimates of what is needed to allow for appropriate manipulation of family lineages to better manage this population's unique genetic profile, and partly on the availability of animals for capture. Any Columbia Basin pygmy