

population, these threats represent a significant risk to the long-term security of this DPS.

Conclusion

Due to the combined influence of the above threats, extirpation of the Columbia Basin pygmy rabbit from the wild may occur at any time (WDFW 2001b). In addition, the risks to the captive portion of the population, and the potential for extinction of the Columbia Basin pygmy rabbit, remain high. We have carefully assessed the best scientific and commercial information available regarding the past, present, and potential future threats faced by the Columbia Basin pygmy rabbit. Based on our evaluation of the five threat factors discussed above, we have determined that the Columbia Basin pygmy rabbit is in danger of extinction. As such, we are listing the Columbia Basin pygmy rabbit as endangered.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific area within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species, and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, in accordance with the provisions of section 4 of the Act, upon a determination by the Secretary that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and its implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our implementing regulations (50 CFR 424.12(a)) state that critical habitat is not determinable if information sufficient to perform the required analyses of impacts of the designation is lacking, or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires us to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available.

We may exclude any area from critical habitat if we determine that the benefits of such exclusion outweigh the conservation benefits, unless to do so would result in the extinction of the species.

We find that designation of critical habitat for the Columbia Basin pygmy rabbit is not determinable at this time because information sufficient to perform the required analyses of the impacts of the designation is lacking. We specifically solicited information on potential critical habitat, biological information, and information that would aid our prudency analysis in our proposed rule. We received no comments regarding specific physical or biological features essential to the Columbia Basin pygmy rabbit which provided information that added to our ability to determine critical habitat. In addition, the extent of habitat essential to the conservation of the species has not been identified. When a "not determinable" finding is made, we must, within 2 years of the publication date of the original proposed rule, designate critical habitat, unless the designation is found to be not prudent.

We will continue to protect the Columbia Basin pygmy rabbit and its habitat through section 7 consultations to determine whether Federal actions may affect this population segment, through the recovery process, through HCPs and through enforcement of the Act's "take" prohibitions (*see* 16 U.S.C. 1538; 50 CFR 17.21).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, requirements for Federal protection, prohibitions against certain activities, and development of recovery plans. Recognition through listing results in public awareness and encourages conservation actions by Federal, State, and Tribal agencies, non-governmental conservation groups, and private individuals. The Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for listed species. The protection required of Federal agencies, and the prohibitions against certain activities involving listed species are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision

of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing, or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat, if any has been designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

Federal agencies, whose actions may require consultation for the Columbia Basin pygmy rabbit include, but are not limited to, those within the jurisdictions of the Service, BLM, Bureau of Reclamation, Natural Resources Conservation Service, and Farm Service Agency. In addition, activities that are authorized, funded, or administered by Federal agencies on non-Federal lands will be subject to section 7 review.

We believe that protection and recovery of the Columbia Basin pygmy rabbit will require reduction of the threats from uncontrolled fire, altered predation patterns, excessive livestock grazing, disease outbreaks, mortality associated with the captive propagation and release programs, and loss of genetic viability. These threats should be considered for management actions in habitats currently and potentially occupied by the Columbia Basin pygmy rabbit, and those deemed important for dispersal between their appropriate use areas. Monitoring should also be undertaken for any management actions or scientific investigations designed to address these threats or their potential impacts.

Listing the Columbia Basin pygmy rabbit as endangered provides for the development and implementation of a recovery plan for the population. This plan will bring together Federal, State, tribal, and local efforts for conservation of the species, and will establish a framework for interested parties to coordinate recovery efforts. The plan will set recovery priorities, assign responsibilities, and estimate the costs of the various tasks necessary to achieve conservation and survival of the species. Additionally, pursuant to section 6 of the Act, we will be able to grant funds to the State of Washington for management actions promoting the protection and recovery of this species.

Considerations for management actions and scientific investigations to