

expanded rural development exists on non-Federal lands within the unit.

Jumping mice identified in the field as the Preble's have been captured from various portions of this unit with one specimen from Little Bear Gulch verified through morphological examination as the Preble's.

Unit SP10: Ralston Creek, Jefferson County, Colorado

Unit SP10 encompasses approximately 277 ha (686 ac) on 12.9 km (8.0 mi) of streams within the Ralston Creek watershed. It includes Ralston Creek from Ralston Reservoir upstream to the 2,300 m (7,600 ft) elevation. The unit includes both public and private lands including lands in Golden Gate Canyon State Park and White Ranch County Park. Denver Water lands along Ralston Creek, originally proposed for designation within this unit, have been excluded from the final designation (see Relationship to Habitat Conservation Plans).

This unit is located in the Clear Creek HUC and is designated to partially address the criteria of three small recovery populations or one medium recovery population called for this area in our conservation strategy. The segment of Ralston Creek that passes through the Cotter Corporation's existing Schwartzwalder Mine serves as a connector between areas supporting all primary constituent elements required by the Preble's located in areas upstream and downstream. The Preble's has been verified through morphological examination of a specimen from the lower portion of this unit.

Unit SP13: Upper South Platte River, Jefferson and Douglas Counties, Colorado

Unit SP13 encompasses approximately 1,321 ha (3,265 ac) on 70.5 km (43.8 mi) of streams within the Platte River watershed. It includes four subunits. The Chatfield subunit includes a section of the South Platte River upstream of Chatfield Reservoir within Chatfield State Recreation Area (Army Corps of Engineers' property). The Bear Creek subunit includes Bear Creek and West Bear Creek, tributaries to the South Platte River on National Forest System lands. The South Platte sub-unit includes a segment of the South Platte River upstream from Nighthawk, including the tributaries Gunbarrel Creek and Sugar Creek. This subunit is centered on Federal lands of the Pike-San Isabel National Forest but includes some intervening non-Federal lands. Non-Federal lands in Douglas County are not included in the final

designation (see Relationship to Habitat Conservation Plans below). The Trout Creek subunit includes portions of Trout Creek, a tributary to Horse Creek, and also portions of Eagle Creek, Long Hollow, Fern Creek, Illinois Gulch, and Missouri Gulch. This subunit is centered on Federal lands of the Pike-San Isabel National Forest but includes some intervening non-Federal lands along Trout Creek. Denver Water lands within the Chatfield, Bear Creek, and South Platte River subunits, originally proposed for designation within this unit, have been excluded from the final designation (see Relationship to Habitat Conservation Plans).

This unit is located in the Upper South Platte HUC and, while unlikely to serve as an initial recovery population, encompasses four areas of primarily Federal land spread through the drainage, three within the Pike-San Isabel National Forest boundary. Habitat components present and the likely density of Preble's populations vary. The Trout Creek subunit appears to have high quality Preble's habitat and may provide an opportunity to research relationships between the Preble's and the western jumping mouse, both of which have been verified from the same trapping effort in the subunit. Small segments of non-Federal lands in the unit are within the Douglas County HCP currently being developed. The Preble's has been confirmed through morphological examination of a specimen from Trout Creek near the Douglas County-Teller County boundary at 2,310 m (7,590 ft). Other captures of jumping mice from various locations within this unit have been identified in the field as the Preble's.

Effects of Critical Habitat Designation

Designating critical habitat does not, in itself, lead to recovery of a listed species. Designation does not create a management plan, establish population goals, prescribe management actions, or directly affect areas not designated as critical habitat. Specific management recommendations for areas designated as critical habitat are most appropriately addressed in recovery, conservation, and management plans, and through section 7 consultations and section 10 permits. Critical habitat designation does not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be the subject of the full range of considerations in recovery planning, conservation actions that may be implemented under Section 7(a)(1), regulatory protections afforded by the Section 7(a)(2) jeopardy standard, and

the Section 9 take prohibition. Areas outside of critical habitat designation may still be determined to be necessary for species recovery and survival. Similarly, Federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings. Critical habitat designations made on the basis of the best scientific and commercial data available at the time of designation may not dictate the direction and substance of future recovery plans, habitat conservation plans under section 10 of the Act, or conservation planning.

Section 7 Consultation

The regulatory effects of a critical habitat designation under the Act are triggered through the provisions of section 7, which applies only to activities conducted, authorized, or funded by a Federal agency (Federal actions). Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR 402. Individuals, organizations, States, local governments, and other non-Federal entities are not affected by the designation of critical habitat unless their actions occur on Federal lands, require Federal authorization, or involve Federal funding.

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as "a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to: alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." However, in a March 15, 2001, decision of the United States Court of Appeals for the Fifth Circuit (*Sierra Club v. U.S. Fish and Wildlife Service et al.*, F.3d 434), the Court found our definition of destruction or adverse modification to be invalid. In response to this decision, we are reviewing the regulatory definition of adverse modification in relation to the conservation of the species.

Consultation for Designated Critical Habitat

If a Federal action may affect a listed species or its designated critical habitat, the action agency must initiate consultation with us (50 CFR 402.14). Through this consultation, we would