

² Note that because these values represent the probability that small businesses will be affected during a 1-year time period, calculations may result in fractions of businesses. This is an acceptable result, as these values represent the probability that small businesses will be affected.

This calculation reflects conservative assumptions and nonetheless yields an estimate that is still far less than the 20 percent threshold that would be considered "substantial." As a result, this analysis concludes that a significant economic impact on a substantial number of small entities will *not* result from the designation of critical habitat for the silvery minnow. Nevertheless, an estimate of the number of small businesses that will experience effects at a significant level is provided below.

Costs of critical habitat designation to small businesses consist primarily of the cost of participating in section 7 consultations and the cost of project modifications. To calculate the likelihood that a small business will experience a significant effect from

critical habitat designation for the silvery minnow, the following calculations were made:

- Calculate the per-business cost. This consists of the unit cost to a third party of participating in a section 7 consultation (formal or informal) and the unit cost of associated project modifications. To be conservative, the economic analysis uses the high-end estimate for each cost.

- Determine the amount of annual sales that a company would need to have for this per-business cost to constitute a "significant effect." This is calculated by dividing the per-business cost by the 3 percent "significance" threshold value.

- Estimate the likelihood that small businesses in the study area will have

annual sales equal to or less than the threshold amount calculated above. This is estimated using national statistics on the distribution of sales within industries.

- Based on the probability that a single business may experience significant effects, calculate the expected value of the number of businesses likely to experience a significant effect.

- Calculate the percent of businesses in the study area within the affected industry that are likely to be affected significantly.

Calculations for costs associated with designating critical habitat for the silvery minnow are provided in Exhibit 2 below.

EXHIBIT 2.—ESTIMATED ANNUAL EFFECTS ON SMALL BUSINESSES: THE "SIGNIFICANT EFFECT" TEST

Industry	Sanitary Services ISC ¹ 4959	
	Formal consultations with project modifications	Informal consultations
Annual Number of Small Businesses Affected (from final Economic Analysis)	0.13	0.75
Per-Business Cost	\$34,100	\$2,900
Level of Annual Sales Below which Effects Would Be Significant (Per-Business Cost/3%)	\$1,136,667	\$96,667
Probability that Per-Business Cost is Greater than 3% of Sales for Small Business ²	48%	3%
Probable Annual Number of Small Businesses Experiencing Significant Effects (Number Small Businesses)* (Probability of Significant Effect)	0.06	0.02
Total Annual Number of Small Businesses Bearing Significant Costs in Industry	0.08	
Total Annual Percentage of Small Businesses Bearing Significant Costs in Industry	1.4%	

¹ ISC = Interstate Stream Commission.

² This probability is calculated based on national industry statistics obtained from the *Robert Morris Associated Annual Statement of Studies: 2001–2002*, which provides data on the distribution of annual sales in an industry within the following ranges: \$0–1 million, \$1–3 million, \$3–5 million, \$5–10 million, \$10–25 million, and \$25+ million. This analysis uses the ranges that fall within the SBA definition of small businesses (*i.e.*, for industries in which small businesses have sales of less than \$5.0 million, it uses \$0–1 million, \$1–3 million, and \$3–5 million) to estimate a distribution of sales for small businesses. It then calculates the probability that small businesses have sales below the threshold value, using the following components: (1) All small businesses (expressed as a percentage of all small businesses) in ranges whose upper limits fall below the threshold value experience the costs as significant; (2) for the range in which the threshold value falls, the percentage of companies in the bin that fall below the threshold value is calculated as [(threshold value—range minimum)/(bin maximum—range minimum)] × percent of small businesses captured in range. This percentage is added to the percentage of small businesses captured in each of the lower ranges to reach the total probability that small businesses have sales below the threshold value. Note that in instances in which the threshold value exceeds the definition of small businesses (*i.e.*, the threshold value is \$10 million and the definition of small businesses is sales less than \$5.0 million), all small businesses experience the effects as significant.

Because the costs associated with designating critical habitat for the silvery minnow are likely to be significant for less than one small businesses per year (approximately 1 percent of the small businesses in the sanitary services industry) in the affected counties, the economic analysis concludes that a significant economic impact on a substantial number of small entities will *not* result from the designation of critical habitat for the silvery minnow. This would be true even if all of the effects of section 7

consultation on these activities were attributed solely to the critical habitat designation.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. We have a very good consultation history for the silvery minnow; thus, we can describe the kinds of actions that have

undergone consultations. Within the critical habitat designated in the middle Rio Grande, the BLM has the highest likelihood of any Federal agency to undergo section 7 consultation for actions relating to energy supply, distribution, or use. However, since 1994, the BLM has not conducted any consultations for resource management plans that relate to energy supply, distribution, or use. We do not anticipate the development of oil and gas leases within the area we are designating as critical habitat (J. Smith,