

publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more

stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Mitigation Division Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This proposed rule is not a significant

regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

**PART 67—[AMENDED]**

1. The authority citation for Part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground ◆ Elevation in feet ◆ (NAVD)	
				Existing	Modified
IL .....	Dwight (Village) Grundy and Livingston Counties.	Gooseberry Creek .....	Just upstream of East Livingston Road ...	◆620	◆619
			Approximately 1,750 feet upstream of South Washington Street.	None	◆636

Maps are available for inspection at the Public Service Complex, 209 South Prairie Avenue, Dwight, Illinois. Send comments to Mr. Kevin McNamara, Village Administrator, Village of Dwight, 209 South Prairie Avenue, Dwight, Illinois 60420.

◆ North American Vertical Datum of 1988.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: January 4, 2006.

**David I. Maurstad,**

*Acting Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E6-2016 Filed 2-13-06; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; Petition To List the Douglas County Pocket Gopher as Threatened or Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the

Douglas County pocket gopher (*Thomomys talpoides macrotis*) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition does not present substantial scientific or commercial information indicating that listing the Douglas County pocket gopher may be warranted. This finding is based on our determination that the Douglas County pocket gopher is more widespread than indicated in the petition, that substantially more sites are currently occupied, and that many of these occupied sites are protected from development by being part of county-administered open space, Lowry Military Reservation lands, or various

State-owned lands in Douglas, Arapahoe, and Elbert Counties, Colorado. Therefore, we will not initiate a status review in response to this petition. However, the public may submit to us new information concerning the status of or threats to the Douglas County pocket gopher at any time.

**DATES:** The finding announced in this document was made on February 14, 2006.

**ADDRESSES:** The complete file for this finding is available for public inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, 134 Union Boulevard, Suite 645, Lakewood, Colorado 80228. Submit new information, materials, comments or questions regarding the status of or threats to this taxon at the above address.

**FOR FURTHER INFORMATION CONTACT:** Bob Dach, U.S. Fish and Wildlife Service, Region 6 (see **ADDRESSES**) (telephone 303-236-4264; facsimile 303-236-0027).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we make a finding as to whether the Petitioners (Center for Native Ecosystems [CNE], Forest Guardians, Michael C. McGowan, and Jacob Smith) presented substantial scientific or commercial information indicating that listing the Douglas County pocket gopher as threatened or endangered may be warranted. Our regulations require that we make this finding, to the maximum extent practicable, within 90 days of our receipt of the petition and then promptly publish it in the **Federal Register**. Although this notice has been delayed, it represents our 90-day finding.

This 90-day finding is not intended to determine whether the Douglas County pocket gopher should be listed. It is only intended to determine whether substantial scientific or commercial information indicates that listing may be appropriate. "Substantial scientific or commercial information" is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)(1)). If we find that substantial scientific or commercial information exists, we are required to promptly commence a status review of the species. The status review would ultimately lead to a listing determination.

In accordance with the Act's requirement that we use the best

available information to support our finding, we reviewed additional information readily available in our files to clarify certain points raised in the petition, including preliminary information regarding the genetic distinctness of the Douglas County pocket gopher. Also, although we did not conduct research or subject the petition to rigorous critical review, we did consider additional information in our files concerning more recent field observations. In total, the information available to us indicates that the Douglas County pocket gopher is more widespread than indicated in the petition, substantially more sites are currently occupied, and many of these occupied sites are protected from development by being part of county-administered open space, Lowry Military Reservation lands, or various State-owned lands in Douglas, Arapahoe, and Elbert Counties, Colorado.

**Previous Federal Action**

On March 27, 2003, we received a formal petition from the CNE, Forest Guardians, Michael C. McGowan, and Jacob Smith to list the Douglas County pocket gopher as a threatened or endangered species pursuant to section 4 of the Act and to designate critical habitat. The petition cited threats from rapid commercial and residential development, exotic species, herbicide use, modifications to natural water runoff patterns, predation, lack of regulatory mechanisms, poisoning, and environmental and genetic stochasticity. The petition also requested an emergency rule based on immediate threats from development.

In a letter dated May 20, 2003, we denied emergency listing because, after reviewing available data and risks to the subspecies, we determined that there was not a significant and immediate risk to its continued existence. On May 5, 2003, and April 1, 2004, the Petitioners sent notices of intent to sue for our failure to make 90-day and 12-month findings, respectively, and on February 2, 2005, we received a Complaint for Declaratory and Injunctive Relief. In light of these legal actions, we discussed various options with the plaintiffs and agreed to submit a completed 90-day finding to the **Federal Register** by February 3, 2006.

**Species Information**

The pocket gopher is a fossorial (adapted to digging) rodent measuring 225–230 millimeters (8.9–9 inches). It is 1 of 58 northern pocket gopher (*Thomomys talpoides*) subspecies, 9 of which are located within Colorado (Hall

1981). Pocket gophers have a small, flattened head, short neck, and muscular shoulders and forearms. Furred cheek pouches (pockets), which open externally, distinguish them from other rodents. Adult pocket gophers are solitary, territorial, and have very small home ranges. The northern pocket gopher is short-lived, with a maximum lifespan of approximately 5 years.

**Distribution and Population Status**

The northern pocket gopher has the widest distribution of all pocket gophers—from Manitoba to Colorado, and from the Cascade and Sierra Nevada mountain ranges eastward to Minnesota. Disjunct populations occur in Arizona, New Mexico, and Utah. Local populations are separated by unsuitable habitat, usually attributed to soil type, and by major geographic barriers (Culver and Mitton, *in litt.*, 2004). The northern pocket gopher inhabits a variety of habitat types, including deep, tractable soils, heavily compacted soils, and shallow gravels (CNE *et al.* 2003). The Douglas County pocket gopher in particular seems able to tolerate a variety of soil types, utilizing areas not preferred by adjacent northern pocket gopher subspecies.

Douglas County pocket gopher life history characteristics (including their strong territoriality and solitary nature) and their discontinuous distributions (based on local habitat characteristics) lead to small population sizes. The historic distribution of the Douglas County pocket gopher is limited to parts of southwestern Arapahoe, northern Douglas, and northwestern Elbert Counties in Colorado (CNE *et al.* 2003). The Petitioners identified five sites where the Douglas County pocket gopher had recently been known to occur, all in Douglas County. Their petition was based largely on threats to these remaining colonies.

The petition estimated the current global population of the Douglas County pocket gopher at 501 to 1,000 individuals or "unknown, but thought to be small." This estimate was taken from the Colorado Division of Wildlife (CDOW) Vertebrate Ranking System—a proactive tool to help identify potential wildlife conservation needs in the State. However, the Vertebrate Ranking System is not intended to provide accurate population estimates of individual species or subspecies (Gary Skiba, CDOW, *pers. comm.*, 2003). Although CDOW is aware of potential conservation concerns, they emphasize that population size is "unknown" (Skiba 2003).

Field studies conducted by the Colorado Natural Heritage Program

(CNHP) in 2002 identified 5 additional northern pocket gopher colonies in southern Douglas, eastern Elbert, and southern Arapahoe Counties that were not identified in the petition, extending the known range of the gopher to the east and south of the type locality (Jeremy Siemers, CNHP, *pers. comm.* April 4, 2003). Although these populations have not been positively identified to the subspecific level, they were within or near the Douglas County pocket gopher's range as delimited by Armstrong (1972) (Siemers 2003). In addition, field observations conducted in 2003 by the Service, CDOW, Douglas County, David Armstrong (mammalogist, University of Colorado), and Chris Pague (The Nature Conservancy) identified Douglas County pocket gopher spoil mounds, soil casts, and eskers in an additional 36 locations, at least six of which are currently protected as open space, are on State park lands, or are currently being held in trust (that is, Lowry Military Reservation) (Elliott Sutta, Service, *in litt.*, May 20, 2003). The location and soil type of these colonies supports their assignment to *Thomomys talpoides macrotis*. The 2003 observations were very limited in duration and scope, indicating that a more thorough analysis of the gopher's range is necessary to fully understand its current distribution. No other subspecies of pocket gopher has been reported in the area of these additional colony sites. Based on the proximity of these additional locations to known Douglas County pocket gopher populations, as well as the distance from other pocket gopher subspecies populations, there is no reason to believe these additional colonies may be other than *Thomomys talpoides macrotis*. The best available scientific and commercial information suggests that there are at least 41 more colonies than identified in the petition.

#### Classification

The taxonomy of the northern pocket gopher has not been revised since 1915, and only recently have genetic data been collected to evaluate the phylogenetic relationships among the subspecies (Culver and Mitton, *in litt.* 2004). *Thomomys talpoides macrotis* was named by F.W. Miller in 1930 and characterized by its larger body and paler, more grayish color (when compared to adjacent populations of *T. t. rostralis* and *T. t. retrorsus*). Existing taxonomy, based on pelage color and morphology alone, suggests that variation between subspecies of northern pocket gophers is often less than variation seen within a single subspecies (Culver and Mitton, *in litt.*,

2004). Available information further suggests that the taxon includes more than one species (Culver and Mitton, *in litt.*, 2004). Based on this information, we concur with assertions made by Culver and Mitton (*in litt.*, 2004) that the available information brings into question the species' current subspecific taxonomy.

The Petitioners provided some information regarding the Douglas County pocket gopher's subspecific status, but their justification relied largely on its existing, widely accepted taxonomy as described by Miller (1930) and the lack of compelling evidence to suggest otherwise. However, a recent mitochondrial DNA analysis found no diagnostic differences among the three contiguous subspecies of the northern pocket gopher in the Douglas County area (*Thomomys talpoides macrotis*, *T. t. rostralis*, and *T. t. retrorsus*) (Culver and Mitton 2005 *in litt.*, 2004). Although this study calls into question the species' current taxonomy, we consider the findings preliminary given certain methodology limitations (*for example*, limited number of specimens sampled [115], small amount of genome sampled [305 basepairs], reliance on museum specimens [including skin and liver tissue]). Also, the study has not been peer-reviewed and published.

#### Discussion

In the following discussion, we respond to each of the major assertions made in the petition, organized by the Act's listing factors. According to section 4(a)(1) of the Act and its implementing regulations (50 CFR 424), a species may be added to the Federal list of endangered and threatened species due to one or more of the following five factors—(1) The present or threatened destruction, modification or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting its continued existence. The Petitioners provided information regarding these 5 factors, but they only addressed 5 of 46 known sites (that is, there was no information provided on 41 sites and no information provided in the petition, or readily available in our files, to assume that the threats identified in the petition are consistent throughout the Douglas County pocket gopher's range).

Fundamental to the threats discussion is the need for substantial scientific or commercial information indicating that a reduction in range and/or population size has been, or is likely, occurring. We

have reviewed the information provided in the petition and did not find substantial scientific or commercial information indicating that limited range and small population size were a threat to this species. Although the Douglas County pocket gopher has a comparatively small range (with respect to other northern pocket gopher subspecies), there is no indication that its geographic range is becoming smaller. When comparing field studies and observations from 2002 and 2003 with its historic range, range size may be stable—although as indicated above, a more thorough analysis of the gopher's geographic range is necessary to fully understand its current distribution. We do not have information concerning historical or current population abundance at any sites to address the question of whether the overall population has experienced a decline.

#### A. Present or Threatened Destruction, Modification or Curtailment of the Species' Habitat or Range

##### Information Provided in the Petition

The petition stated that the limited range and small population size of the Douglas County pocket gopher makes it vulnerable to disturbance; rapid commercial and residential development are resulting in habitat loss and fragmentation; habitat is being degraded from exotic species and herbicide use; and modifications to natural water runoff patterns are altering soil moisture content and limiting habitat availability (related to both site-specific development and climate change). The Petitioners further state that Douglas County pocket gophers are currently limited to five sites in Douglas County, Colorado—the Willow Creek, Lincoln Avenue, McArthur Ranch, Newlin Gulch, and Grandview Estates sites (CNE *et al.* 2003). These sites were surveyed in 1993 and 1994 by CNHP, and subsequently visited in January 2003 (CNE *et al.* 2003).

In 1993, the Willow Creek site was heavily disturbed and fragmented by Interstate C-470 and County Line Road, ephemeral streams and ravines had been cut off, streams had been channelized, bike paths had been built through the site, and there were many exotic plant species (CNE *et al.* 2003). By 2003, colonies north of C-470 had been lost to construction of a strip mall and car dealerships, and habitat to the south had been severely fragmented from other development (that is, the land had been graded and seeded with nonnative grasses) (CNE *et al.* 2003). Although some gopher habitat remained, the Petitioners stated that it was currently

being managed for recreational cyclists. Threats to this site included commercial development, altered hydrology, noxious weeds, habitat fragmentation, loss of native forage species, and recreational disturbances from the adjacent bike path (CNE *et al.* 2003).

The Lincoln Avenue site is located approximately 2 miles (3 kilometers) south of the Willow Creek site and could possibly have been part of the Willow Creek colony (CNE *et al.* 2003). In 1993 and 1994, the Lincoln Avenue site showed signs of two gopher concentrations, although by 2003 one concentration had been completely lost to development and the other had been severely isolated. Threats to this site included development, fragmentation, rodenticides, herbicides (associated with a neighboring golf course), other pesticides, loss of native forage, altered hydrology, and recreational disturbance (CNE *et al.* 2003).

In 1993, the McArthur Ranch site had abundant signs of Douglas County pocket gopher use, but by 2003 all areas previously described by CNHP had been developed, were undergoing development, or had been reserved for future housing, schools, and recreational facilities (CNE *et al.* 2003). The petition stated that threats to this site included loss of native forage, fragmentation, road disturbance, and development.

The Newlin Gulch site was largely open prairie used for cattle grazing in 1994 (when CNE last observed the site). Four groups of mounds, each likely representing one or two individual Douglas County pocket gophers, were reported in the area (CNE *et al.* 2003). The land has since been sold to the Parker Water and Sanitation District, where a 205,622,616-hectoliter (16,670-acre-foot) reservoir is under construction with a planned expansion of 670,154,574 hectoliters (54,330 acre-feet). At least one set of mounds observed in 1994 would be destroyed from this development (CNE *et al.* 2003). The petition stated that threats to this site also included changes in hydrology, disturbance associated with the construction and maintenance of the reservoir, disturbance associated with recreational opportunities around the reservoir, habitat fragmentation, noxious weeds, and soil removal.

The Grandview Estates site consisted largely of disturbed grasslands where only sporadic gopher mounds had been observed. There has been no development on this site, but the area has been zoned for commercial development (CNE *et al.* 2003). Therefore, the petition identified

development, loss of native forage, and habitat fragmentation as threats.

In general, the petition stated that habitat destruction was the primary threat to the Douglas County pocket gopher. Douglas County pocket gopher concentrations at three of the five sites reviewed in the petition had already been destroyed, and development of the Rueter-Hess Project and commercial development proposed for Grandview Estates threatened the remaining two sites. In addition, the petition identified habitat fragmentation (leading to inbreeding and loss of gene flow) and degradation (noxious weeds and an increase in fire frequency) as significant threats for the remaining isolated colonies. The Petitioners included some information on the effects of herbicides and suggested that disruptions in natural runoff patterns may alter soil moisture content.

#### Evaluation of Information in the Petition Regarding Factor A

The petition presented compelling information regarding habitat loss as a result of commercial and residential development, and specific colonies have undoubtedly been lost. We found this discussion undeniable for those sites completely covered by concrete and asphalt, where they may have been lost due to the construction of recreational facilities (for example, baseball diamonds, football or soccer fields, golf courses), or covered by water (as may be for the Reuter-Hess Project). However, we were unable to conclude that these threats were common throughout a significant portion of the pocket gopher's range or a significant factor at the subspecific level based upon the new information we have about additional occupied sites. We did not find substantial scientific or commercial information indicating that bike path construction posed a risk to the subspecies. Also, the petition presented information indicating that certain sites had been heavily impacted by exotic plant species. However, it also identified pocket gopher populations occurring within these disturbed areas, and it did not include information demonstrating an effect on the pocket gopher.

The petition also provided information regarding the effects of herbicide applications on pocket gophers in general but did not provide substantial scientific or commercial information regarding the actual use of herbicides on Douglas County pocket gopher habitats (that is, although the petition stated that herbicides were bad for pocket gophers, it did not provide substantial scientific or commercial

information regarding whether, where, or how they were being applied). Without this information, we cannot determine whether threats from the application of herbicides are significant. With respect to runoff patterns and soil moisture content, the petition recognized the lack of available information regarding potential effects to the Douglas County pocket gopher and provided no substantial scientific or commercial information to support possible effects from flooding in urban areas caused by disrupted runoff patterns. No information was presented to demonstrate, for example, possible effects from urban runoff on any pocket gopher species, which are generally adapted to avoiding seasonal runoff (Chapman and Feldhamer 1982). Although not provided in the petition, information enabling review of local hydrology, frequency of high water events, or effects on specific colonies (for example, proximity of pocket gopher colonies to streambanks or number of locations potentially affected) may help to support this claim.

#### *B. Overutilization for Commercial, Recreational, Scientific, or Education Purposes*

##### Information Provided in the Petition

Regarding Listing Factor B, the petition restated commercial and residential development as threats and stated that pocket gophers were killed for agricultural purposes, and destroyed to make way for recreational facilities (for example, baseball fields, bike paths, golf courses). The Petitioners provided information to show that pocket gophers were widely regarded as agricultural pests and that a division under the U.S. Department of Agriculture manufactured and disseminated toxicants to control pocket gopher populations in areas used for agriculture and silviculture. The petition stated that these toxicants were available to area landowners and managers.

##### Evaluation of Information in the Petition Regarding Factor B

Commercial and residential development, including baseball fields, bike paths, and golf courses was considered under Listing Factor A, above, and as stated, there was not substantial scientific or commercial information presented to warrant further status review. In addition, the petition did not provide substantial scientific or commercial information to indicate that poisoning is a threat to the subspecies—only that pocket gopher control has occurred and that toxicants are readily available. Control is largely related to

agricultural areas, which are not representative of currently known pocket gopher localities. No information was provided to support widespread (or even limited) use of poisons on pocket gopher colonies by State, city, or local officials or suggestions that eradication programs are under way in certain areas.

The petition did not present any information indicating that the Douglas County pocket gopher is being overutilized (pursuant to the intent of this listing factor) and we are not aware of any organized use of the subspecies for commercial, recreational, scientific, or educational purposes (that is, they are not a game species, provide no commercial value, are not prone to target shooting, and we have no information to suggest that scientific or educational collections are widespread).

### C. Disease or Predation

#### Information Provided in the Petition

Predation has not been documented as limiting Douglas County pocket gopher numbers or range (CNE *et al.* 2003). However, the petition suggested that population growth may modify traditional predator-prey relationships with a deleterious effect to Douglas County pocket gophers. The Petitioners suggested that construction would lead to additional raptor perches, referencing a Bureau of Land Management Environmental Impact Statement (EIS) for oil and gas development in the Powder River basin, Wyoming, and that residential development would increase predation from domestic dogs and cats. The petition also suggested that coyote control would lead to an increase in smaller predator populations (such as bobcats, badgers, foxes, and skunks) that could have an increased effect on Douglas County pocket gophers.

#### Evaluation of Information in the Petition Regarding Factor C

The petition did not provide substantial scientific or commercial information that would allow an objective review of its hypotheses. We are unaware of any studies that demonstrate an increase in raptor densities corresponding to increased residential and commercial construction in urban areas, and information contained in the referenced EIS is largely inapplicable given the substantially different ecosystems being discussed (that is, large expanses of open prairie with intermittent raptor perches versus urban development and the associated negative effects to raptor colonization and use). No information was provided to assess the likelihood or potential magnitude of the effects from

domestic dogs and cats and, although coyote control efforts and other factors would likely have an effect on the prevalence of smaller predators, there was no information presented that would enable an assessment of the impact of these factors across the pocket gopher's range. Disease was not identified as a potential threat in the petition.

### D. Inadequacy of Existing Regulatory Mechanisms

#### Information Provided in the Petition

The petition stated that there are no specific regulatory mechanisms in place to protect the Douglas County pocket gopher and that only one site, Willow Creek, is being managed as open space. Even at the Willow Creek site, the South Suburban Parks and Recreation District is not actively managing for pocket gophers, but focuses their efforts on recreational use (CNE *et al.* 2003).

#### Evaluation of Information in the Petition Regarding Factor D

Recent surveys have identified at least six additional pocket gopher sites that are either managed as open space, on State park lands, or currently being held in trust (that is, Lowry Military Reservation). It is not clear from the information presented in the petition or readily available to us, what threats may be pertinent to these populations, or if specific regulatory protections are needed.

### E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

#### Information Provided in the Petition

The petition identified global climate change, demographic, environmental and genetic stochasticity, stress, and population growth as threats under this listing factor. Regarding climate change, the petition stated that human-caused climate change may lead to increases in the frequency and intensity of drought and flooding and stated that winter and spring precipitation in Colorado may increase by as much as 70 percent. These changes would affect Douglas County pocket gophers by increasing soil moisture content.

Regarding demographic stochasticity, the petition stated that the extremely short lifespan of the Douglas County pocket gopher, its vulnerability upon dispersal, and its relatively low rate of reproduction all exacerbate its susceptibility to extinction, given its very small population size (CNE *et al.* 2003). Because all five of the populations identified in the petition are threatened by development, the

Petitioners stated that the potential for demographic bottlenecks and consequent extinction is great.

Issues pertinent to environmental stochasticity, as presented in the petition, generally include fire, disease, resource availability, and predation—factors more pertinent to smaller geographic distributions (less important to population size because entire populations are usually affected). The petition specifically stated that drought, excessive levels of water in snow pack, and atypical snow melts contribute to declines in Douglas County pocket gophers. The Petitioners also identified inbreeding depression and a resulting loss of fitness as potential genetic stochastic events.

The petition also stated that many of the factors previously discussed could lead to increased stress levels, subsequently leading to reduced reproduction and survival rates, and the petition provided various census data demonstrating high levels of population growth in Arapahoe and Douglas Counties.

#### Evaluation of Information in the Petition Regarding Factor E

The Petitioners discussed the effects of climate change on survival and recruitment, but presented information largely inapplicable to the Douglas County pocket gopher. It was not clear based on the information presented in the petition how climate change has affected the pocket gopher's habitat. Climate change has been linked to a number of conservation issues and observed changes in animal populations and ranges. However, direct evidence that climate change is the cause of these alterations is often lacking (McCarty 2001). To our knowledge, specific analysis regarding potential effects of climate change on the Douglas County pocket gopher has not been conducted. The information provided in the petition is speculative in nature and does not provide substantial scientific or commercial information of threats to the pocket gopher from climate change.

Stochastic, or random, changes in a wild population's demography or genetics can threaten its persistence (Pimm *et al.* 1988). A stochastic demographic change, such as a skewed age or sex ratio (such as a sudden loss of adult females) could negatively affect reproduction, especially in small populations (that is, Allee effects; Allee 1931). Northern pocket gophers are subject to intermittent fluctuations in population size (Chapman and Feldhamer 1982), and the impacts could be more pronounced in the Douglas County pocket gopher given its

comparatively smaller historic range and population.

However, we did not find substantial scientific or commercial information in the petition to indicate whether the factors necessary for such stochastic events are present (decreasing population densities, decreasing reproduction rates, unreliable sources of immigration). Information related to these metrics is vital for determining whether demographic or genetic stochastic events are likely to occur given threats to the subspecies. In all cases, the Petitioners supported their claims with 2 fundamental assertions, that there are less than 5 remaining colonies of Douglas County pocket gophers and that the subspecies' population size is between 501 and 1,000 individuals and declining. As we have noted previously, there appear to be many more colonies than those identified in the petition and there has not been substantial scientific or commercial information provided to support estimates of the subspecies population size or status. Because information pertaining to the 41 colonies not recognized in the petition was unavailable to us, we could not conclude that "all of the remaining populations are threatened by development" as stated in the petition. In addition, the Petitioners presented no information to support their claims that environmental stochasticity presents a threat to pocket gophers; there was no information provided to demonstrate that fire would be more likely to occur as a result of development, disease is not considered a threat to this subspecies, and there was not substantial scientific or commercial information presented to support weather fluctuations or predation as threats.

The Petitioners relied on the fact that the Douglas County pocket gopher was only known from five sites to show that stochastic events threaten the species.

Given what is now known about the additional 41 populations, we do not think that stochastic events would threaten the species throughout all or a significant portion of its range.

The petition did not provide substantial scientific or commercial information to demonstrate that a reduction in reproduction and survival had occurred, was occurring, or was a threat at the subspecific level. This information could be used to support the claim that stress was a significant threat. Also, we do believe that development could pose a long-term threat to this species, but there was not substantial scientific or commercial information indicating that development would be a threat across the Douglas County pocket gopher's range in the foreseeable future.

#### Summary

The Petitioners presented information on potential threats that could be affecting the Douglas County pocket gopher. However, there was insufficient information presented to determine whether these threats were substantially occurring or what degree of impact they may be having at the subspecific level, largely because the Petitioners' assessment was limited to only five populations. Also, there was insufficient information demonstrating a declining range or population trend. Most limiting was a necessary consideration of how the potential threats recognized by the Petitioners applied to the 41 additional sites identified through field observations and studies in 2002 and 2003. Based on the limited information presented in the petition and readily available in our files, we were unable to extrapolate the Petitioners' claims to those populations.

#### Finding

On the basis of our review, we find that the petition does not present substantial scientific or commercial

information indicating that listing the Douglas County pocket gopher may be warranted. This finding is based on our determination that the pocket gopher is more widespread than indicated in the petition, that substantially more sites are currently occupied, and that many of these occupied sites are protected from development by being part of county-administered open space, Lowry Military Reservation lands, or various State-owned lands in Douglas, Arapahoe, and Elbert Counties, Colorado. Therefore, we will not initiate a status review in response to this petition. However, we will continue to monitor the taxon's population status and trends, potential threats, and ongoing management actions that might be important with regard to the conservation of the Douglas County pocket gopher across its range. We encourage interested parties to continue to gather data that will assist with these conservation efforts. New information should be submitted to U.S. Fish and Wildlife Service (*see ADDRESSES*).

#### References Cited

A complete list of all references cited herein is available, upon request, from the U.S. Fish and Wildlife Service (*see ADDRESSES*).

#### Author

The primary author of this notice is Bob Dach, Region 6 Office, U.S. Fish and Wildlife Service (*see ADDRESSES*).

#### Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 3, 2006.

#### Marshall P. Jones,

*Deputy Director, Fish and Wildlife Service.*  
[FR Doc. 06-1288 Filed 2-13-06; 8:45 am]

**BILLING CODE 4310-55-P**