



Colorado  
Legislative  
Council  
Staff

# ISSUE BRIEF

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Number 01-4

A Legislative Council Publication

May 10, 2001

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## FEDERAL THREATENED AND ENDANGERED SPECIES AND HABITAT CONSERVATION

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Since 1973, wildlife, fish, and plant species in danger of extinction throughout the U.S. have been protected by the federal Endangered Species Act<sup>1</sup>. Recognized as one of the most far-reaching environmental laws in the world, the Act provides extraordinary regulatory authority to the National Marine Fishery Service and U.S. Fish and Wildlife Service (Service) to protect threatened and endangered species. Under the Act, a species is "endangered" if it is at risk of extinction throughout all or a significant portion of its habitat. A species is "threatened" if it is likely to become endangered within the foreseeable future. The Service is responsible for protecting threatened and endangered species in Colorado. This brief identifies some of the regulatory procedures that affect Colorado's endangered species, state agencies, local governments, businesses, and private landowners. Certain state and county efforts to protect declining species populations and avoid federal intervention are also described.

### Species Protection Under the Act

The Act outlines processes to determine if a species is at risk of extinction, remove the major causes of its endangerment, and return the species to a viable state. A species is placed on the federal list

of threatened and endangered species through either a citizen petition process or by the Service.

#### *Federally protected species in Colorado.*

Currently, there are 18 endangered and 13 threatened species in Colorado. For example, the least tern and the piping plover are two endangered birds that nest in the lower Arkansas River Valley. The endangered Colorado pikeminnow fish is found in the Colorado, Green, Dolores, and Gunnison rivers. The threatened Preble's meadow jumping mouse lives near streams along the front range from Colorado Springs to southern Wyoming. There are also several species, such as the black-tailed prairie dog and Canada lynx, that are potential candidates for federal protection.

*How species are protected.* Once a species is listed as threatened or endangered, the Service limits activities that would cause it further harm. The Service usually protects geographical areas it determines are essential to the species survival. It is illegal to intentionally or unintentionally harm a listed species. However, the Service may issue an "incidental take" permit for lawful activities, such as home construction, mining, or timber harvesting, that may unintentionally harm a species. The Service requires that states, local governments, and private landowners applying for an incidental take permit also develop a habitat conservation plan.

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1. 16 U.S.C. 1531, et seq.

## Habitat Conservation Plans

A habitat conservation plan is a legally-binding agreement between a landowner and the Service and is usually developed in cooperation with the Service. In the plan, a landowner identifies land use activities on his or her property that could unintentionally harm a listed species and its habitat. The landowner promises to take certain measures to minimize impacts to a species and, in return, the landowner may proceed with the activities. Critics of this approach raise concerns about possible long-term risks for listed species. For example, critics claim that an activity could be permitted in a species habitat without knowing if the landowner's protection measures will adequately contribute to the species recovery.

***Regional habitat conservation plans.*** Counties with threatened or endangered species habitat may develop regional or county-wide plans in order to conduct a variety of land use activities. El Paso, Douglas, Jefferson, and Boulder counties are developing these plans for activities in Preble's meadow jumping mouse habitat. For example, in Douglas County's regional plan, ongoing activities, such as agricultural operations, that have low or no impact on the mouse's habitat may continue. Moderate impact activities, such as construction of new facilities, that follow specific guidelines to minimize adverse effects on the habitat will also be permitted. The plan will allow emergency activities to take place that have minimal and temporary impact on the habitat, such as emergency repair of existing structures.

## State Initiatives to Protect Listed Species

Colorado is one of the first states to establish an interdepartmental management team to coordinate species protection efforts in state departments, such as Natural Resources, Transportation, Agriculture, and Public Health and Environment. The team, assembled under Governor Owens' 1999 executive order, will identify new funding sources for species recovery efforts and assist the Service, local

governments, and private landowners with recovery goals and requirements.

***Department of Natural Resources species conservation programs.*** The Colorado Department of Natural Resources is the primary state agency responsible for recovering listed species and conserving habitat. The department, federal government, and private entities contribute financial and technical support to species conservation programs. Programs on the San Juan and Upper Colorado rivers are designed to recover endangered fish populations. A cooperative agreement between Colorado, Wyoming, Nebraska and the federal government governs programs to recover endangered species along the Platte River in Nebraska. Department programs also focus on preventing aquatic species and prairie-grassland species from declining to a point that warrants federal protection.

## Funding for Endangered Species

A significant portion of the funding for species recovery programs in Colorado comes from the federal government and the state's Species Conservation Trust Fund and Great Outdoors Colorado Trust Fund. Over the past three years, the federal government has spent \$347 million on endangered species programs nationwide. During this period, the state spent \$9 million to protect and recover listed species. House Bill 98-1006 created the Species Conservation Trust Fund to conserve species native to Colorado that are on the federal list of threatened and endangered species or are likely to be listed in the future. The bill appropriated \$10 million to the fund in FY 1998-99 for department programs designed to recover declining species populations and protect habitat. For FY 2000-01, the General Assembly appropriated an additional \$5 million to the fund to continue these programs. Recovery programs in the Upper Colorado, San Juan, and Platte rivers alone are expected to cost the state \$28 to \$30 million over the next 15 years.