



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

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February 3, 2016

Cons. # 02ENNM00-2016-I-0295

Maria T. Garcia, Forest Supervisor  
Santa Fe National Forest  
11 Forest Lane  
Santa Fe, New Mexico 87508

Dear Ms. Garcia:

This responds to your January 21, 2016, email and biological assessment (BA) requesting concurrence pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. § 1531 et seq.) for the proposal to protect and improve habitat conditions for the New Mexico meadow jumping mouse (*Zapus hudsonius luteus*) (jumping mouse) within the Ojito Frio, Red Top, San Miguel, and Vacas Allotments where jumping mouse critical habitat has been proposed along the Rio de Las Vacas, Cuba Ranger District, Santa Fe National Forest. In addition, the BA analyzes ongoing grazing activities within the Palomas and Peñas Negras Allotments, where potential habitat is present, but jumping mouse critical habitat has not been proposed. You requested concurrence with your determinations that the proposed action “may affect, is not likely to adversely affect” the jumping mouse. You also requested concurrence with your determinations that the proposed action is “not likely to adversely modify” proposed critical habitat for the jumping mouse and “may affect, is not likely to adversely affect” critical habitat for the jumping mouse if the designation is finalized.

The action area includes Rio de las Vacas which runs along Forest Roads (FR) 20 and 539 on the Cuba Ranger District, Santa Fe National Forest. Proposed jumping mouse critical on Rio de las Vacas runs from the confluence with the Rio Cebolla at Porter Landing north to the confluence of Rock Creek and Rio de las Vacas. There are three grazing allotments that contain proposed jumping mouse critical habitat north of the Girl Scout Camp. These include the Ojito Frio, Red Top and Vacas Allotments. The San Miguel Allotment is located south of the Girl Scout Camp and two other grazing allotments; Palomas and Peñas Negras do not have proposed jumping mouse critical habitat; however, these allotments have potential jumping mouse habitat, as well as, historically occupied jumping mouse habitat on the Rito Peñas Negras. These 5 allotments will serve as the action area.

Elevation in the action area ranges between 8,400 to 8,800 feet and is predominantly ponderosa pine and mixed conifer forest. Areas suitable for livestock grazing include grassland stringers and swales, open ponderosa pine forest, mixed conifer timber areas and riparian corridors along the Rio de las Vacas where jumping mouse critical habitat has been proposed.

To date, the existing condition of the action area has been influenced by historic and ongoing activities including: fire wood gathering , road maintenance and construction, prescribed/wild fire, regulated and unregulated recreation, livestock grazing, and wild ungulate grazing (specifically Rocky Mountain Elk), to a lesser extent. Currently, livestock grazing and dispersed recreation are the primary factors that have contributed to the composition and structure of riparian habitat, compounded by natural events such as drought. All other activities do not occur within riparian habitat or they occur at such insignificant levels that they are not expected to have influenced the environmental baseline.

The Cuba Ranger District is proposing to protect jumping mouse proposed critical habitat from Forest Service regulated use. Targeted surveys for the jumping mouse in 2005 did not document any jumping mice within the action area (Frey 2005). Currently, the jumping mouse is not known to exist in areas covered by this consultation on the Ojito Frio, Red Top, San Miguel, Vacas, Palomas, and Peñas Negras Allotments.

Based on information contained the BA, we find that your proposed action will have insignificant and discountable effects to the jumping mouse and its proposed critical habitat. The proposed action and our rationale are further detailed below.

Grazing occurs on all six allotments on a deferred rotation system, occurring from June 1 through October 31. Livestock entry dates are adjusted for range readiness. Deferral of grazing is usually until seed ripening, to achieve a specific management objective. The deferred rotation is a strategy aimed at providing time for plant reproduction, establishment of new plants, restoration of plant vigor, a return to environmental conditions appropriate for grazing, or the accumulation of forage for later use. In order to facilitate proper grazing management, various range improvements are maintained or replaced as necessary, these could include fences, pipelines, corral, and water sources. Any new improvements would require new site specific consultation. The BA provides a detailed review and analysis of individual pastures in the Ojito Frio, Red Top, Vacas, San Miguel, Palomas, and Peñas Negras Allotments, and their pastures existing conditions within proposed jumping mouse critical habitat and potential habitat jumping mouse habitat. For clarity, much of the information from the BA is incorporated by reference and not duplicated here.

#### Conservation (Protective) Measures

- 1) Administrative closure and fencing of River Pasture in the Red Top Allotment. Allow livestock access to water for cattle at Red Top Spring.
- 2) The area to the east of the new fence in River Pasture will be closed to grazing.
- 3) Although not specific to the jumping mouse or proposed jumping mouse critical habitat, administrative pasture closures exist in areas of proposed jumping mouse critical habitat. Under the current NEPA decision, these pastures will remain closed.
- 4) Maintain exclosures that have been previously built within the Red Top Allotment.
- 5) Keep Water Gap Pasture closed to livestock grazing and vehicles.
- 6) Allow the Water Gap Pasture to be used as a trailing corridor for livestock for 2 to 3 days in the spring and a fall, but ensure that any PCEs present are maintained.
- 7) Inspect and maintain all ungulate exclosures along the Rio de las Vacas.

- 8) Install upland water developments in the San Miguel Allotment.
- 9) Fence the proposed jumping mouse critical habitat in the Lower Vacas Pasture prior to the June 1 turnout of cattle in the allotment.
- 10) Allow access for water in the Aspen and Diego Pastures in proposed jumping mouse critical in 2 areas that do not contain proposed primary constituent elements PCEs of proposed jumping mouse critical habitat that were identified during the rapid assessment. This will be accomplished by fencing the water gaps, so cattle cannot access proposed jumping mouse critical habitat. Water gaps will be of sufficient size to not focus cattle in a small area.
- 11) Additional upland waters will be developed after allotment NEPA is complete.
- 12) Additional fencing in Bales canyon and Rito la Cueva for better cattle management will be completed after allotment NEPA is complete.

There is approximately 5 linear miles of proposed jumping mouse critical habitat along Rio de las Vacas extending through the Ojito Frio, Red Top, San Miguel, and Vacas Allotments. Current habitat conditions within these allotments do not support all PCEs of proposed jumping mouse critical habitat. The habitat varies from mediocre to very poor (Frey 2005). However, the current conditions are not a result of livestock grazing, except for the River pasture of the Red Top Allotment. In all other pastures within proposed jumping mouse critical habitat, livestock grazing has been excluded by fences and/or pastures are closed to grazing and will remain closed.

Potential habitat for the jumping mouse exists outside of proposed jumping mouse critical habitat in the Ojito Frio, Red Top, San Miguel, Peñas Negras, and Palomas Allotments. Future survey and monitoring of these areas will determine the extent and quality of this habitat and its contribution to the species survival and recovery. Currently, habitat conditions in these allotments are not suitable for jumping mouse occupancy due to long-term historical and current grazing of these areas that has reduced the quality and amount of herbaceous riparian vegetation.

For the following pastures, there is no proposed jumping mouse critical habitat, jumping mouse habitat, or the pasture is closed and/or excluded from livestock grazing. As a result, we do not anticipate any direct or indirect adverse effects to the species or proposed jumping mouse critical habitat.

#### Palomas Allotment:

- The Rincon, Sacatales and Minas Allotments are not located in proposed jumping mouse critical habitat and they do not contain habitat attributes that are conducive to supporting the jumping mouse.

#### Peñas Negras Allotment:

- The North Café, Valle Coyote, Calaveras and the Red Fern Holding Pastures are not located in proposed jumping mouse critical habitat and they do not contain habitat attributes that are conducive to supporting the jumping mouse. The Peñas Negras Riparian 2 and 103 Riparian are closed and will remain closed to livestock grazing.

Ojito Frio Allotment:

- The Mining Pasture is not located in proposed jumping mouse critical habitat and they do not contain habitat attributes that are conducive to supporting the jumping mouse.
- Proposed jumping mouse critical habitat within the Moon Pasture is closed to livestock grazing via private land boundary fences and Highway 126 right-of-way fencing. The rest of the Moon Pasture is grazed; however, these areas do not contain riparian habitat and have no suitability for the jumping mouse. Grazing pressure is also low due to the fencing and natural barriers which limit accessibility by cattle. The availability of water and more suitable foraging areas are in the Telephone and Moon Canyons.
- Proposed jumping mouse critical habitat within the Rock Creek Pasture is fenced via private land boundaries or the right-of-way fence along on both sides of Highway 126. These areas are not considered riparian habitat. Generally cattle do not stay in this area as available water is in Burned canyon, Rito Peñas Negras and Rock Creek. Therefore, cattle will have no access to proposed jumping mouse critical habitat in this pasture.
- The Ojito Frio Riparian, Peñas Negras, and Amadeo's Pastures are closed to grazing and will remain closed. Riparian enhancement projects have been successful in protecting riparian habitat and have potential for improving suitability of proposed jumping mouse critical habitat.

Red Top Allotment:

- The Indio and Red Top pastures are not located in proposed jumping mouse critical habitat and the pastures do not contain habitat attributes that are conducive to supporting the jumping mouse.
- The Vacas Riparian 2 and the Water Gap Pastures are closed to grazing and will continue to remain closed. Riparian enhancement projects have been successful in protecting riparian habitat and have potential for restoring proposed jumping mouse critical habitat.

Vacas Allotment:

- The Eureka Pasture is not located in proposed jumping mouse critical habitat and the pasture does not contain habitat attributes that are conducive to supporting the jumping mouse.
- The Camp Area, Hwy 126 Vacas, Vacas Admin, Clear Creek Campground, RLV Campground, Day Use Area Pastures are closed to grazing and will continue to remain closed.

San Miguel Allotment:

- The Miguel, Smokey, Rito La Queva and Bales Pastures are not located in proposed jumping mouse critical habitat and they do not contain habitat attributes that are conducive to supporting the jumping mouse.

Palomas Allotment:

- The Palomas Allotment contains 16 acres of potential jumping mouse habitat along the American Creek in the Palomas Holding pasture. This pasture is used only in the fall at the end of the grazing season usually after October 15th when cattle are being rounded up and moved off of the allotment. There are no exclosures protecting the 16 acres of potential habitat in this pasture. Herbaceous riparian vegetation can be found along this stream; however, based on habitat conditions, no suitable mouse habitat is present.

Peñas Negras:

- The South Café Pasture has about 5 acres of potential jumping mouse habitat. Exclosures constructed in 2013 fully protect about 4 of these acres. This pasture contains Rito Café, which is a major tributary to the Rito Peñas Negras. Herbaceous riparian vegetation can be found along this stream; however, based on habitat conditions no suitable mouse habitat is present.
- The Lodin Pasture has about 35 acres of potential jumping mouse habitat at the headwaters of the Rito Peñas Negras. Grazing is scheduled to occur up to 15 days at the end of the season in late October. Approximately 183 head will use this pasture during this time as they are gathered and trailed back down the Schroyer and Porter Pastures. There are no exclosures protecting the 35 acres of potential habitat. Herbaceous riparian vegetation can be found here dominated by grass, rush and sedge. No suitable mouse habitat is present.
- The Schroyer Pasture has about 81 acres of potential jumping mouse habitat. Grazing will occur for up to five days in the spring and up to ten days in the fall when livestock are moved off the allotment. There are no exclosures protecting the 81 acres of potential jumping mouse habitat in this pasture. This pasture contains an historical observation just outside of private land boundary, where beaver activity was present. In 2005, jumping mouse surveys found the stream confined to the channel and where there was little moist soil areas. Herbaceous riparian zone primarily consisted of shrubs which included willow and alder gooseberry, rose, and cinquefoil (Frey 2005). Riparian vegetation did not appear developed enough to support the jumping mouse and none were captured (Frey 2005). Herbaceous riparian vegetation can be found along this stream; however, based on habitat conditions no suitable mouse habitat is present.

Ojito Frio Allotment:

- The Ojito Frio Holding Pasture has 2 acres of potential jumping mouse habitat, which is fully protected by exclosures that were built in 2012. These exclosures were built with grant money obtained by Wild Earth Guardians. This was a collaborative effort with the Forest Service for riparian restoration. These exclosures are intended to protect planted native riparian vegetation from livestock, elk and motorized vehicle use. The objectives of the planting are to reduce and stabilize stream temperatures, which are expected to enhance the quality of aquatic and terrestrial habitat. Riparian habitat has improved within the exclosure and herbaceous riparian vegetation can be found along this stream; however, there are no sedge communities and no moist, saturated soils.

Red Top Allotment:

- The Trail Creek Riparian Pasture contains 27 acres of potential habitat outside of proposed jumping mouse critical habitat. Trail Creek is a small perennial tributary of the Rio de las Vacas. The creek is incised, keeping the water below the level needed to create suitable jumping mouse habitat. The riparian zone is narrow and fragmented, consisting primarily of rushes and sedge with no riparian shrubs. This pasture is grazed late in the season, October 20th, for up to five days and there are no exclosures in this pasture.

Vacas Allotment:

- The Windy/Horse Pasture of the Vacas Allotment is one of three main grazing pastures. Exclosure fencing along ten acres of proposed jumping mouse critical habitat keeps livestock from entering riparian areas; however, grazing is authorized within proposed jumping mouse critical habitat in some of the upland areas, but will be monitored to ensure compliance. These fences are maintained annually.
- The Turkey Pasture is considered non-capable range with very steep slopes, where grazing does not occur. The Vacas Admin Pasture is closed to grazing and fencing is maintained annually.

Areas within Proposed Jumping Mouse Critical Habitat

The following Allotments and their associated pastures have the potential for effects to PCEs and jumping mouse habitat. With the incorporation of the proposed conservation measures, the effects of livestock grazing will be insignificant and discountable. These effects are briefly summarized below.

For all of these areas, the Forest Service personnel will perform compliance checks regularly throughout the 2016 grazing season to ensure that no livestock are within exclosed riparian areas or closed pastures. These checks will be documented in the project record and provided to the Service after the 2016 grazing season and every grazing season thereafter. If livestock are found within the excluded riparian areas, they will be immediately removed or reported to the permittee and removed within 24 hours.

In areas where there is potential for habitat to develop the PCEs (e.g., 24 inch minimum vegetation height, abundance of seed heads and insects, perennial flowing water and moist soils and intact upland areas), we anticipate insignificant and discountable effects to proposed jumping mouse critical because administrative changes, (e.g. no programmed grazing of the River Pasture and maintaining current pasture closures) will limit potential of livestock grazing pressure. These management changes are expected to reduce the potential for impacts to mouse habitat within and outside of proposed jumping mouse critical.

Red Top Allotment; River Pasture:

PCEs within proposed jumping mouse critical will be protected through adaptive management focusing on the conservation of riparian habitat within the Rio de las Vacas drainage.

The River pasture was not grazed for the 2015 grazing season will close administratively beginning the 2016 grazing season. This closure will eliminate all programmed grazing from proposed jumping mouse critical on the Red Top Allotment. Excluding grazing would allow vegetation to be restored and maintained.

#### San Miguel Allotment: Aspen, Diego, Lower Vacas, and La Cueva Pastures

On the San Miguel Allotment, management will change on the Aspen, Diego, and Lower Vacas Pastures when upland water developments are installed. Moreover, livestock exclosures will be constructed on the San Miguel Allotment to minimize direct and indirect effects to jumping mouse habitat and proposed jumping mouse critical.

The La Cueva Pasture contains potential suitable habitat outside of unoccupied proposed critical, but both this pasture and the Diego are non-capable transitory range; therefore grazing pressure is very light, and thus any effects on the NMMJM would be expected to be insignificant.

#### Ojito Frio Allotment:

Twenty-one acres of proposed jumping mouse critical in the Rock Creek Pasture will not be grazed due to exclusion of livestock by right of way fencing on Hwy 126 and private land boundaries. Other pastures will also remain closed. Riparian enhancement projects have been successful in protecting riparian habitat and have potential for improving/increasing jumping mouse habitat.

The proposed action will begin to restore and maintain tall dense herbaceous riparian vegetation. All direct and indirect effects to jumping mouse and its habitat are expected to be insignificant or discountable because no grazing will occur within the areas that are exclosed and within areas where exclosure will be constructed. Because of frequent compliance monitoring, we do not expect any adverse effects to occur within exclosed areas or closed pastures. Moreover, the actions will ensure tall dense herbaceous riparian vegetation is likely to be present when the species emerges from hibernation to provide the necessary hiding and escape cover from potential predators, and the resources necessary to build nests and dens that provide adequate protection from the elements.

The proposed action will also assist in the maintenance and restoration of the proposed PCEs of jumping mouse critical habitat. This action will limit trampling of streambanks and alteration of dense herbaceous riparian vegetation that would have adverse effects on the species, especially because there is a strong tendency for livestock to congregate in riparian habitat. The proposed action will also ensure that sufficient food is available for jumping mice to accumulate fat reserves prior to hibernation. Although the proposed action will not fence the entire proposed jumping mouse critical habitat, frequent monitoring will ensure these areas provide the necessary PCEs. If the PCEs are not being maintained, then consultation will be reinitiated. Limiting grazing within proposed critical habitat will also benefit the jumping mouse by increasing the amount of forage and cover for the species. The proposed action of protecting riparian habitat

from livestock grazing will restore and maintain important hiding and escape cover from potential predators, which may lead to greater survival and increased dispersal capabilities.

Based on this information, we concur that the proposed action for the Ojito Frio, Red Top, Vacas, San Miguel, Palomas and Peñas Negras Allotments “may affect, is not likely to adversely affect” the jumping mouse. Moreover, we concur that the proposed action for the Ojito Frio, Red Top, San Miguel, Vacas Allotments is “not likely to adversely modify” proposed critical habitat and “may affect, is not likely to adversely affect” critical habitat if the designation is finalized. The Palomas and Peñas Negras Allotments do not contain proposed jumping mouse critical habitat, so none will be affected. Importantly, we note that if there is any deviation from the proposed action (e.g., livestock within fenced riparian areas or grazing outside of the authorized season) or forage use monitoring in the uplands exceeds 40 percent utilization, reinitiation of consultation will be triggered.

This concludes section 7 consultation and conferencing regarding the proposed action. If monitoring or other information results in modification or the inability to complete all aspects of the proposed action, consultation should be reinitiated. Please contact the Service if: 1) future surveys detect listed, proposed or candidate species in habitats where they have not been previously observed; 2) the proposed action changes or new information reveals effects of the proposal to listed species that have not been considered in this analysis; or 3) a new species is listed or critical habitat designated that may be affected by the action.

Thank you for your concern for endangered species and New Mexico’s wildlife habitats. If you have any questions, please contact Eric Hein of my staff at the letterhead address or at (505) 761-4735.

Sincerely,

Wally Murphy  
Field Supervisor

cc:

Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico