

Congress of the United States
Washington, DC 20515

July 7, 2015

Mr. Dan Ashe, Director
U.S. Fish and Wildlife Service
Main Interior
1849 C Street, NW Room 3331
Washington, D.C. 20240-0001

Dear Director Ashe:

It is our understanding that the U.S. Fish and Wildlife Service (the Service) anticipates finalizing a Critical Habitat Rule for the Western Distinct Population Segment of the Yellow-billed Cuckoo (YBC) in the next several weeks. Critical Habitat has been proposed in nine western states, including Colorado.

The proposal to designate Critical Habitat in Colorado has met with universal opposition from the affected counties as well as the Colorado Department of Natural Resources (DNR). We too share the concerns expressed by the counties and by the State of Colorado, and urge the Service to refrain from designating any Critical Habitat in Colorado.

According to comments submitted by Colorado DNR, the state “is on the fringe of the natural YBC[U] range and cannot make a significant contribution toward conservation of the species.” These comments further point out that a review of historical records indicates that not only is the species in no way common in Colorado presently, but very likely never was. Furthermore, in the areas proposed for Critical Habitat designation, there are protections already in place, either in the form of a Habitat Conservation Plan (HCP), as is the case in the affected counties of the San Luis Valley; through the presence of State Wildlife Areas (SWA), as is the case in Mesa County, and which exist expressly for the benefit of wildlife; or through the several riparian habitat restoration and protection efforts that occur in each of the affected counties.

While the designation of Critical Habitat in Colorado clearly offers no significant benefit to the species, the accompanying restrictions would certainly do demonstrable harm to the economies of the affected communities.

For instance, the aggregates that are used in the construction of virtually all infrastructure projects, including highways and other roads, bridges, dams, and all structures (including schools

and hospitals) are very often mined from the alluvial deposits along river and stream corridors. The Colorado Stone, Sand, and Gravel Association (CSSGA) estimates that consumers in Colorado use ten tons of aggregates each year.

A significant proportion of the cost of these aggregates is found in transportation – trucking these materials more than a few miles could very feasibly cost more than the value of the actual materials themselves. Unless these resources are accessible within a reasonable distance of construction projects, the cost of that construction necessarily skyrockets. The ailing economies in communities throughout Western Colorado and the San Luis Valley should not be further burdened with unnecessary additional costs to an economic sector as vital as construction.

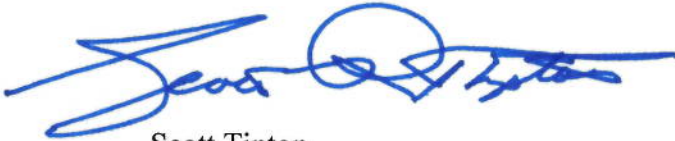
These are not unfounded concerns – proposed Critical Habitat in Colorado is already having a negative effect, though the rule is not yet final. Aggregate production companies have indicated that, while a final rule is pending, federal, state, and local agencies are hesitant to approve any activities along the waterways proposed by the Service for Critical Habitat.

Construction is not the only vital sector of the state's economy that would see serious negative impacts, however. Agriculture is foundational to the economic well-being of every county in question. Ranching and farming is woven into the very fabric of our identity as Coloradans. And regardless of whether Critical Habitat is excluded directly from private lands, within the agricultural sector there is nearly always a federal nexus through funding from the U.S. Department of Agriculture or other agencies that would trigger time-consuming and expensive consultations before essential activities like erosion control, weed control, irrigation installation and improvements, and grazing management could move forward. Ranching and farming require precise seasonal timing and budgeting, and do not have the luxury of waiting for biological studies to be completed, let alone contributing toward them financially. This is especially true when the necessity of doing so is questionable at best.

Lastly, much effort and many resources have been expended throughout the proposed Critical Habitat areas to eradicate invasive species like tamarisk, and restore waterways and riparian habitat to their historically natural state. These efforts prove beneficial to a multitude of native flora and fauna, but they are laborious, expensive, and require collaboration from a variety of stakeholders. We firmly oppose any Critical Habitat designation that will put at risk the current successes of these efforts, and disincentivize manual and financial contributions to future efforts in areas that still require treatment. We fully recognize the good intentions engendered within the Endangered Species Act, but this issue represents yet another instance in which it would behoove the Service to pause and consider whether the proposed action would in fact result in more harm than good.

We thank the Service for giving serious consideration to these concerns. Based upon the feedback we have reviewed from the State of Colorado and local governments, as well as various economic sectors that stand to sustain considerable harm, we reaffirm our position that there does not appear to be sufficient scientific justification for the designation of Critical Habitat for the YBC within Colorado, especially in light of the economic harm it would cause to our communities.

Sincerely,



Scott Tipton
Member of Congress



Cory Gardner
United States Senator

Cc:

Colorado Department of Natural Resources
Alamosa County Board of Commissioners
Conejos County Board of Commissioners
Delta County Board of Commissioners
Gunnison County Board of Commissioners
Mesa County Board of Commissioners
Moffat County Board of Commissioners
Montrose County Board of Commissioners
Ouray County Board of Commissioners
Rio Grande County Board of Commissioners
Routt County Board of Commissioners