Photo: Ann Ruggles (Center for Biological Diversity)

Five environmental groups — NRDC, Center for Biological Diversity, Defenders of Wildlife, Center for Native Ecosystems, and Biodiversity Conservation Alliance — have filed a lawsuit challenging FWS’s decision last year to list the Preble’s meadow jumping mouse (pictured) as threatened only in Colorado, leaving it off the protected list in Wyoming. FWS justified that distinction on the factual grounds that the mouse faces fewer threats in Wyoming (because there is less development pressure there than in the mouse’s habitat in Colorado) and on the legal ground that the ESA allows listing in a portion of the species’ range even if the species cannot be separated into “distinct population segments.” From the press releases and news stories about the filing, it looks to me like the environmental groups are contesting both the factual and legal bases for treating the mouse differently in the two states. The legal claim is the focal point, however. They are concerned that a controversial 2007 Interior Solicitor’s Opinion will be used to quietly gut the ESA by limiting protective efforts to only the most imperiled portions of a species’ range, and see this case as a good opportunity to challenge that opinion.

Of course, the Obama administration could pull the offending opinion and reconsider the Preble’s decision (among others), but there has been no indication so far that it intends to do so. Coincidentally, the group Public Employees for Environmental Responsibility issued a press release this week attacking the ESA enforcement record of Sam Hamilton, Obama’s nominee to head FWS. Some other groups, including Ducks Unlimited, have come to Hamilton’s defense.