



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Inyo County Planning Department

FOR THE BOARD MEETING OF: September 20, 2016

SUBJECT: Designation of Critical Habitat for the Sierra Nevada Yellow-Legged Frog, the Northern Distinct Population Segment of the Mountain Yellow-Legged Frog, and the Yosemite Toad

RECOMMENDATION: Review the Final Rule designating critical habitat for the Sierra Nevada Yellow-Legged Frog, the Northern Distinct Population Segment of the Mountain Yellow-Legged Frog, and the Yosemite Toad, and provide direction to staff.

SUMMARY DISCUSSION: The U. S. Fish and Wildlife Service (USFWS) published the final ruling for the Designation of Critical Habitat for the Sierra Nevada Yellow-Legged Frog, the Northern Distinct Population Segment (DPS) of the Mountain Yellow-Legged Frog, and the Yosemite Toad. Critical habitat for these species is proposed in Inyo County and adjacent to the County along the crest of the Sierra Nevada.¹

Background

The Board has issued correspondence previously regarding the proposals beginning in 2013, including several comments on the proposed listings and critical habitat, requests for public meetings and hearings, and an extension of the comment period. The Board issued an analysis of the Draft Economic Analysis prepared by USFWS, including an independently prepared economic analysis of the proposed listing in Inyo County. The Board also conducted a special meeting on September 23, 2013 with USFWS, the Forest Service, and the California Department of Fish and Wildlife, and individual Board members attended USFWS workshops and hearings in Bridgeport and Sacramento, respectively.

On June 3, 2014 the Board approved correspondence to USFWS in response to the official listing. The correspondence addressed ongoing concerns regarding potential economic impacts associated with the endangered species listing and requests the USFWS continue to refine the critical habitat designation to minimize restrictions to existing activities within the proposed critical habitat area. The correspondence also requests the County be consulted as a vested stakeholder in the development of the Species Recovery Plan. There are no further public comment periods associated with either the listing or the designation; however, staff anticipates providing further input in response to the critical habitat designation as part of the species recovery planning process, and at other times as deemed appropriate.

¹ Refer to inyoplanning.org/projects/USFW_YellowLeggedFrog.htm, regulations.gov (Docket No. FWS-R8-ES-2012-0074), or fws.gov/sacramento/outreach/Public-Advisories/SierraAmphibian_Proposals/outreach_PA_SierraAmphibian_Proposals.htm for more information about the proposal, including the County's previous input.

On August 26, 2016 the USFWS published its final ruling for the Designation of Critical Habitat; approximately 1.8 million acres will be designated critical habitat for the three species in Alpine, Amador, Calaveras, El Dorado, Fresno, Inyo, Lassen, Madera, Mariposa, Mono, Nevada, Placer, Plumas, Sierra, Tulare, and Tuolumne Counties, California. The rule is effective as of September 26, 2016.

Analysis

The Final Rule has very little reflecting the County's concerns. The following summarizes the major issues raised:

Critical Habitat Units: The County advocated to remove a number of areas from the Critical Habitat Designation, including South Lake, Bishop Creek, Treasure Lakes, Lamarck Creek, Rock Creek and Rock Creek Lake, Pine Creek, Robinson Lake, Independence Creek, Baker Creek, Coyote Flats, Mulkey Meadows, and Birch Creek. USFWS indicated that it modified the Critical Habitat Units to partially address Rock Creek and Rock Creek Lake, South Lake, and Lamarck Lakes/Lamarck Creek; staff has been unable to confirm this based on the mapping information provided, and will continue to work to do.

Economic Analysis: The County asserted that the economic analysis was inadequate, and that the proposed Critical Habitat would jeopardize approximately \$17,000,000 annually to Inyo County's economy. USFWS dismissed these concerns and argues that the incremental approach it utilizes will result in minimal impacts, largely due to increased administrative costs to federal agencies. Minor adjustments to the Economic Analysis were made, none apparently in response to the County's input, and the Secretary is not utilizing her authority under the Act to make changes due to economic concerns.

Primary Constituent Elements: The County argued that while introduced fish are an important factor in threats to the amphibians, other factors are more important, primarily disease. The County was especially concerned about the Primary Constituent Elements described as "free of fish," as this language could be used to work to cease fish stocking within the Critical Habitat Units and/or remove existing fish populations. USFWS removed the particularly objectionable term for unrelated reasons, but left in the phrase "free of introduced predators."

Threats to be Addressed: The County argued that fishing, recreation, livestock grazing, and packing are not the primary threats to the species. However, these continue to be listed as threats to be addressed.

ALTERNATIVES: The Board may direct Staff to draft a correspondence to USFWS and/or others.

OTHER AGENCY INVOLVEMENT: Department of Interior, USFWS; other agencies with jurisdiction (U.S. Forest Service, California Department of Fish and Wildlife, etc.); neighboring Counties.

FINANCING: General funds are utilized to monitor federal rule making. Resources for Gruen Gruen + Associates' work on the proposals was provided through the geothermal royalties fund.

<u>APPROVALS</u>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)


Attachment: Final Rule

Date: 9/14/20